

# Congress of the United States

Washington, DC 20510

February 25, 2022

Chair Navi Pillay and Commissioners Miloon Kothari and Chris Sidoti  
The United Nations Independent Commission of Inquiry on the Gaza Conflict  
Office of the United Nations High Commissioner for Human Rights  
Palais de Nations  
CH-1211, Geneva, Switzerland

Dear Ms. Pillay and Messrs Kothari and Sidoti:

We are writing to you in your capacity as members of the United Nations Human Rights Council's Commission of Inquiry, charged under [Resolution S-30/1](#) with investigating alleged violations of international humanitarian law as it pertains to the armed conflict between Israel and the combined forces of Hamas and the Palestinian Islamic Jihad in the spring of 2021.

As members of Congress, we believe that respect for the rule of law, to include compliance with international humanitarian law during armed conflicts, are essential for the protection of fundamental human rights and indispensable bases for peace. However, we also share a collective concern with the international community's pattern of bias against Israel when assessing such compliance, and accordingly urge you to conduct this inquiry in a fair and unbiased manner.

As you undoubtedly know, successive U.S. administrations have [expressed grave concern](#) for the Council's "disproportionate focus on Israel" and previous inquiries have resulted in findings that call into question the objectivity of the Council's efforts where Israel is concerned. The Council's Commission of Inquiry report on the 2014 Gaza conflict demonstrated that despite relentless attacks against Israel and its civilian population, it was Israeli defensive actions that garnered the bulk of condemnation, with little attention devoted to the pervasive and blatant international humanitarian law violations by Hamas. We sincerely hope that your inquiry is immune from the bias that infected prior inquiries.

With this in mind, and in response to the Commission's [invitation](#) to individuals, groups, and organizations to submit information and documentation relevant to its mandate, we call your attention to an enclosed [Gaza Conflict 2021 Assessment](#) conducted under the auspices of the Jewish Institute for National Security of America (JINSA). Produced by a task force made up of a dozen retired U.S. generals, admirals, and military legal experts, the report provides legal, strategic, operational, and technological observations about the conflict. We recommend you take the following findings into consideration as you conduct your investigation:

- **During the 11-day conflict, Hamas and Palestinian Islamic Jihad fired more than 4,455 total munitions at Israel, roughly as many as they fired during the 7-week conflict in 2014.** Almost all of these attacks deliberately targeted civilians and civilian population areas in blatant violation of international humanitarian law. While roughly 90 percent of projectiles

targeting civilian populated areas were intercepted by Iron Dome; and over 600 rockets fired from Gaza landed in Gaza, this failure to produce widespread civilian casualties in Israel in no way negates the illegality of these attacks.

- **Israel complied with international humanitarian law (the Law of Armed Conflict (LOAC)) and its requirements to mitigate risks to civilians.** The Israeli Defense Force's (IDF) military operations in Gaza reflected a consistent and good faith commitment to respect and implement international humanitarian law and its principles of necessity, humanity, distinction, proportionality, and precautions. The IDF has comprehensive processes in place to ensure legal vetting of proposed targets, specific method of attack, and potential incidental injury and collateral damage. Its operations adhered to LOAC's mandate to implement all feasible precautionary measures to mitigate risk to the Gazan civilian populations. Numerous leaflets were dropped, telephone calls were placed to residents, and text messages were sent to warn Gazan civilians to leave a defined area of operations in advance of airstrikes. Minutes preceding the actual attack, small munitions delivered a "knock on the roof" to provide further warning of the impending attack—a tactic first used in 2014 and therefore familiar to the civilian population. Moreover, multiple surveillance platforms were dedicated to each target, often for hours, to ensure that civilians evacuated areas of attack. These extensive precautions often came at an operational and tactical cost to the IDF, allowing belligerents to escape, diminishing the tactical advantage of surprise, and reducing the number of other targets that could be monitored or struck. The IDF accepted these costs in the interest of civilian risk mitigation.
- **Hamas violated LOAC and used disinformation in pursuit of its strategic objectives.** Hamas violated LOAC by deliberately directing attacks against Israeli civilians, launching indiscriminate attacks against Israel, and exposing Gazan civilians to avoidable risk to either intentionally complicate Israeli military operations or exploit civilian casualties in order to make false claims of Israeli war crimes. Hamas violated the most fundamental LOAC principle—that of distinction or distinguishing between military and civilian targets—by deliberately attacking Israeli civilian population areas and by launching indiscriminate attacks. While most of these attacks failed, it was the effort, not the result, that indicates Hamas' pervasive LOAC violations.
- **Israel's commitment to developing technological advances in target assessment, acquisition, and attack enhanced its protection of Israeli and Gazan civilians alike.** Israel's military described its operations in May 2021 as the "first artificial intelligence (AI) war." By deploying AI algorithms and machine learning, paired with intelligence analysts in "man-machine teams" to flag and review potential targets, the IDF synthesized data into pre-conflict folders. These were more detailed, accurate, and timely than in 2014. With rapid, accurate intelligence provided to combat units through an effective battlefield management system and integrated with precise weapons, the IDF could conduct highly accurate airstrikes, substantially mitigating risks to civilians.

As the United States is a newly elected member of the United Nations Human Rights Council, the U.S. Congress takes its oversight role with respect to U.S. engagement seriously. We thank you for your attention to this matter and await your report.

Sincerely,



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Vicky Hartzler  
Member of Congress



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Joe Wilson  
Member of Congress



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Ted Budd  
Member of Congress



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Ronny L. Jackson  
Member of Congress



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Randy K. Weber, Sr.  
Member of Congress



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John R. Moolenaar  
Member of Congress



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Brian Babin, D.D.S.  
Member of Congress



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W. Gregory Steube  
Member of Congress



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Ben Cline  
Member of Congress



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Bob Gibbs  
Member of Congress

Cc:

United Nations Secretary-General António Guterres

President of the UN General Assembly Abdulla Shahid

High Commissioner for Human Rights Michele Bachelet

President of the Human Rights Council

The Honorable Antony Blinken, U.S. Secretary of State

The Honorable Linda Thomas Greenfield, U.S. Permanent Representative to the United Nations,

The Honorable Lloyd Austin, U.S. Secretary of Defense