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10 January 2021

Tēnā koe Hon Minister Mahuta,

RE: Aotearoa New Zealand's principles

Background

We are writing in the hope that you will take a principled¹ and balanced stance at the United Nations in the face of escalating bias.

Your decision to not send a representative to the 'Durban IV' conference was in keeping with previous governments and represents an important stand against clear racism². However, we note that Aotearoa New Zealand has a long history of failing to vote against any of the disproportionate and biased resolutions against Israel³. Our voting record is more similar to Iran, Venezuela, Russia, and Malaysia than to traditional allies like Canada, Australia, and the United Kingdom⁴.

It is disappointing that you recently justified voting for an imbalanced resolution that erased the Jewish indigenous connection to Jerusalem⁵ by writing that "Aotearoa New Zealand will continue to pursue a principled and balanced approach to the Middle East Peace Process..."⁶.

There is now, unfortunately, another opportunity for you to show that the principles of Aotearoa New Zealand are not in keeping with unfair bullying at the United Nations. We hope that you will not pass up this opportunity to stand against institutional racism.

United Nations Human Rights Council Commission of Inquiry on Israel

The United Nations General Assembly approved a resolution establishing an ongoing Commission of Inquiry which has unprecedented scope to demonize Israel⁷.

The Commission has been granted a budget of more than US\$5,000,000 per annum⁸, allowing it to hire approximately 24 full-time staff members⁹, for an indefinite period of time¹⁰. No such open-ended investigation has ever been leveled against any other UN member state.

¹ Principles of fairness and integrity, rather than trade- or fear-related.

² <https://israelinstitute.nz/2021/09/iinz-welcomes-government-decision-to-boycott-un-event/>

³ <https://israelinstitute.nz/reports/mfat-advice-on-new-zealand-voting-at-un-with-regard-to-israel/>

⁴ <https://unwatch.org/database/>

⁵ <https://unwatch.org/un-to-condemn-israel-in-3-resolutions-erase-jewish-connection-to-judaisms-holiest-site/>

⁶ In your letter of 13 December 2021.

⁷ The resolution (https://reliefweb.int/sites/reliefweb.int/files/resources/A_HRC_RES_S-30_1_E.pdf) passed by a vote of 24 to 9 with 14 abstentions, New Zealand did not vote on the resolution. Argentina and Namibia were the only free countries (<https://freedomhouse.org/countries/freedom-world/scores>) to vote for the resolution.

⁸ <https://www.wsj.com/articles/the-u-n-s-israel-libel-machine-expands-11640648491>

⁹ For comparison, there are 20 permanent staff for the UNHRC branch covering all of Asia. (<https://www.iins.org/un-inquiry-comes-with-new-independent-facade-same-anti-israel-bias/>).

¹⁰ <https://www.timesofisrael.com/un-moves-forward-with-unprecedented-open-ended-probe-against-israel/>

It is a mark of shame that New Zealand voted in favour of the budget¹¹. Traditional allies like Australia, Canada, and the United Kingdom abstained; the United States voted against and said the probe “perpetuates a practice of unfairly singling out Israel in the UN and, like prior US administrations, we strongly oppose such treatment of Israel,”¹².

Australia said that it was not a member of the UNHRC and could not vote against the resolution when it was approved in May. A representative explained that the mandate for this particular probe “is excessively broad” and “over-resourced,” adding that Australia affirms “Israel’s right to self-defense in accordance with international law.”¹³

The Canadian representative also commented that the probe was a particularly “unacceptable outlier” and that the resources needed were “significantly larger than” those allocated for “all of the investigations we approved resources for today.”¹⁴

We cannot understand how a government that continually claims to be “principled and balanced”, like Aotearoa New Zealand, could continue to support the singling out of the only Jewish nation at the United Nations. We hope that you will raise your voice on this matter, Minister, and speak out against the myriad other ways in which the United Nations has acted in a biased manner.

This is the 33rd commission of inquiry, fact-finding mission or other investigative body created by the UNHRC, and the ninth to target Israel¹⁵. The structural bias and the council’s inordinate focus on the Jewish state has led to the situation where, from 2006 to 2019, the number of UNHRC resolutions condemning Israel was roughly equal to those condemning all other nations combined¹⁶.

The basis of the inquiry is the Israel-Hamas flare-up of violence in May, in which Israel defended itself from more than 4,400 rockets launched by terror groups in Gaza over an 11-day period¹⁷.

The inquiry, however, calls for submissions of evidence of any crimes ever allegedly committed by Israeli officials at any point in the past, back to the “root causes” of the conflict, or even in the future, as the inquiry’s mandate knows no end — a provision unique to this particular commission. Neither the resolution nor the Commission mentions Hamas¹⁸, nor rockets, and the only civilians acknowledged are Palestinians. Instead, it sets up a mechanism to destroy the modern Jewish state by criminalizing its self-defense.

Particularly insidious and inflammatory is the inquiry’s primary purpose: to delegitimize the Jewish state by characterizing it as guilty of “systematic discrimination and repression based on national, ethnic, racial or religious identity.” This is reminiscent of the “Zionism is racism” slogan that was part of the antisemitism evident in the Durban I conference¹⁹ - part of the reason New Zealand has not attended commemorations of that event - and the infamous 1975 UN General Assembly Resolution 3379 that New Zealand opposed and which was revoked in 1991²⁰.

¹¹ <https://www.jpost.com/israel-news/article-689705>

¹² ibid

¹³ ibid

¹⁴ ibid

¹⁵ <https://www.jns.org/un-inquiry-comes-with-new-independent-facade-same-anti-israel-bias/>

¹⁶ <https://www.fdd.org/analysis/2021/06/09/unhrc-creates-flawed-commission-of-inquiry/>. It is shameful that New Zealand has remained silent in the face of such clear institutional bias, making a mockery of claims to be “principled and balanced”.

¹⁷ <http://high-level-military-group.org/pdf/hlmq-interim-assessment-gaza-conflict-may-2021.pdf>

¹⁸ There was an historic, first-ever resolution to condemn Hamas proposed at the UN General Assembly in 2018 but due to a procedural vote that New Zealand shamefully abstained from (<https://israelinstitute.nz/2018/12/nz-governments-vile-abstention/>), it did not proceed.

¹⁹ <https://www.foxnews.com/world/un-conference-reparations-racism-pompeo-anti-semitism>

²⁰ <https://jcpa.org/article/the-1975-zionism-is-racism-resolution-the-rise-fall-and-resurgence-of-a-libel/>

The Commission members

All three members of the Commission have shown bias against Israel, making a mockery of the claim of "independence".

The commission is currently led by South Africa's Navi Pillay, who served as the UN high commissioner for human rights and has displayed a consistent, well-documented animus toward Israel. Her accusations of illegal Israeli conduct during the Gaza flotilla raid of 2010 were later refuted by a UN commission headed by Sir Geoffrey Palmer²¹.

Pillay is a leading champion of the UN Durban conference's antisemitic mantra that the Jewish state is a racist state²². As High Commissioner during the 2008-09 and 2014 Gaza wars, Pillay played a pivotal role in promoting²³ the Goldstone report²⁴. Since leaving office, she's made a habit of promoting BDS²⁵ and accusing Israel of apartheid²⁶.

The two other members of the Commission are Millon Kothari and Chris Sidoti, both with public records of anti-Israel extremism²⁷ and Palestinian partisanship²⁸.

The Issues

The Commission has asked for submissions on the topics below. We have provided some commentary that you may wish to consider submitting²⁹.

1. *Underlying root causes of recurrent tensions, instability and protraction of conflict in and between the Occupied Palestinian Territory, including East Jerusalem, and Israel; as well as systematic discrimination and repression based on national, ethnic, racial or religious identity;*

The root cause of all the tensions and instability between Israel and the Arabs of Judea, Samaria, and Gaza, is the complete unwillingness of the Arab leadership to acknowledge Israel's existence is permanent, legal, historical and moral, and its insistence on rejection of this reality. The Arab leadership is opposed to Israel's existence and prefers conflict over peace as is demonstrated daily and has been for 73+ years³⁰.

The conflict has no racial or ethnic roots. It might well have religious aspects as the PA and Hamas operate as fundamentalist, radical, Islamic supremacist organizations, thus any non-Muslim entity is offensive to them^{31,32,33,34}. Hence they have significantly reduced the Christian populations in their respective regions and eliminated the Jews completely^{35,36}.

²¹ <https://unwatch.org/issue-315-importance-palmer-report/>

²² https://www.un.org/en/durbanreview2009/stmt20-04-09_pillay.shtml

²³ https://www.un.org/webcast/unhrc/12th/statements/Statement_by_High_Commissioner_on_Gaza_Conflict.pdf

²⁴ The lead author of the report famously wrote (https://www.washingtonpost.com/opinions/reconsidering-the-goldstone-report-on-israel-and-war-crimes/2011/04/01/AFq111JC_story.html) "If I had known then what I know now, the Goldstone Report would have been a different document."

²⁵ <https://bdsmovement.net/news/250-prominent-south-africans-call-for-sanctions-stop-annexation>

²⁶ <https://www.youtube.com/watch?v=6sIEfCf1Dhs>

²⁷ <https://newsarchive.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=1029&LangID=E>

²⁸ <https://www.ichr.ps/en/media-center/1366.html>

²⁹ This is based on the work of Andria Spindel of the Canadian Antisemitism Education Foundation (<https://www.caef.ca/post/caef-submission-to-the-un-human-rights-council-commission-of-inquiry-on-israel>)

³⁰ <https://israelinstitute.nz/2020/05/why-is-there-no-two-state-solution/>

³¹ https://avalon.law.yale.edu/20th_century/hamas.asp

³² <https://palwatch.org/page/17562>

³³ <https://www.jpost.com/Middle-East/PA-Hamas-wont-recognize-Jewish-state>

³⁴ <https://www.jpost.com/middle-east/pa-death-penalty-for-those-who-sell-land-to-jews>

³⁵ <https://www.jpost.com/Opinion/The-Christian-crisis-612032>

³⁶ <https://worldpopulationreview.com/world-cities/gaza-population>

In contrast, the Christian and Arab populations of Israel continue to rise^{37,38}. Further, there is no “systematic discrimination and repression based on national, ethnic, racial or religious identity” in Israel. The 20% Arab population (predominantly Muslim) have equal voting rights and protection under law³⁹. An Arab party is part of the current government⁴⁰, and Arab Israelis have excelled in all aspects of Israeli society - including the IDF⁴¹, judiciary⁴², sports⁴³, and popular entertainment⁴⁴. There are also positive steps taken by the Israeli government to support Arab communities⁴⁵.

2. *Facts and circumstances regarding alleged violations of international humanitarian law and alleged violations and abuses of international human rights law leading up to and since 13 April 2021;*

Hamas and the Palestinian Authority are responsible for incitement to violence⁴⁶, abuses of human rights⁴⁷ and attacks on civilians and attempts to destroy Israel⁴⁸. Every conflict between Gaza and Israel was initiated by Hamas which brutally took control of the territory after Israel withdrew in 2005⁴⁹. That is fact and thousands of rockets fired into Israel prove it, as do terror tunnels and fire balloons and smoking tires⁵⁰. They are not for the well-being of their citizens and Hamas punish any who don't obey them or who seek peace with Israel⁵¹.

In contrast, Israel has an independent judicial system, including a Supreme Court that is one of the most respected judicial authorities in the world in seeking to grapple with the difficult problems brought on by democracies engaged in battles with terrorist organisations and hybrid terror-armies⁵².

3. *Identification of those responsible [for the violence in May 2021];*

Clearly the leadership of Hamas and the Palestinian Authority and all of their associated entities are responsible for crimes against humanity⁵³, breaches of human rights⁵⁴, terror and the rewarding of terror⁵⁵, terror training at UNRWA operated schools and camps^{56,57}, and encouraging violence on Arabic media⁵⁸.

An interim analysis of the May conflict by military experts⁵⁹ clearly states “Israel’s response [to terror acts] was measured, carefully calibrated and sought to eliminate threats to its population and territory within the law. In particular, the IDF scrupulously observed International Humanitarian Law, specifically the principles of necessity, proportionality distinction and precautions.”

³⁷ <https://www.jewishpress.com/news/israel/christian-population-in-israel-grew-by-1-4-in-2020/2021/12/21/>

³⁸ <https://www.jpost.com/israel-news/article-690169>

³⁹ <https://www.jewishvirtuallibrary.org/the-status-of-arabs-in-israel>

⁴⁰ <https://www.timesofisrael.com/arab-israeli-raam-party-makes-history-by-joining-bennett-lapid-coalition/>

⁴¹ <https://www.sar-el.org/israels-highest-ranking-muslim-soldier-speaks-out/>

⁴² <https://www.timesofisrael.com/arab-judge-appointed-as-vice-president-of-supreme-court/>

⁴³ <https://fansided.com/2021/11/30/shahd-abboud-arab-israeli-basketball-captain/>

⁴⁴ <https://www.timesofisrael.com/arab-israeli-wins-israels-master-chef/>

⁴⁵ For example <https://www.al-monitor.com/originals/2022/01/electricity-law-connects-bedouin-homes-israels-power-grid> and <https://www.haaretz.com/israel-news/business/.premium-israel-invests-4-million-for-arabs-in-high-tech-1.9505649>

⁴⁶ <https://www.jewishjournal.org/2021/12/23/pa-incitement-and-hamas-are-behind-the-recent-wave-of-attacks/>

⁴⁷ <https://www.haaretz.com/1.5008902>

⁴⁸ <https://jcpa.org/article/hamas-human-rights-violations-in-the-2021-gaza-war/>

⁴⁹ <https://www.jpost.com/israel-news/on-this-day-in-2005-israel-completes-disengagement-from-the-gaza-strip-679288>

⁵⁰ <http://high-level-military-group.org/pdf/hlmg-smoke-mirrors-six-weeks-violence-gaza-border.pdf>

⁵¹ <https://abcnews.go.com/International/wireStory/hamas-arrests-gaza-activists-zoom-call-israelis-70066610>

⁵² <http://high-level-military-group.org/pdf/hlmg-israels-security-challenges-today.pdf>

⁵³ <https://jcpa.org/the-gaza-war-2014/legal-aspects-hamas-war-on-israel/>

⁵⁴ <https://www.camera.org/article/the-washington-post-covers-human-rights-abuses-committed-by-palestinian-officials/>

⁵⁵ <https://www.jpost.com/Arab-Israeli-Conflict/PA-must-halt-pay-for-slay-policy-for-peace-and-prosperity-analysis-616521>

⁵⁶ <https://www.israelnationalnews.com/news/193373>

⁵⁷ <https://www.gatestoneinstitute.org/65/unrwa-and-terrorism>

⁵⁸ <https://palwatch.org/page/20711>

⁵⁹ <http://high-level-military-group.org/pdf/hlmg-interim-assessment-gaza-conflict-may-2021.pdf>

The experts go on to discuss the causes of the conflict and conclude “The proximate cause of the May conflict was a power struggle between Hamas and Fatah.” and identify Hamas as the group primarily responsible for the violence⁶⁰ A similar conclusion was reached by independent international law experts, who highlighted both Israel’s right to self defense and Hamas’ use of Palestinian civilians as human shields^{61,62}.

4. *Recommendations on accountability measures, with a view to avoiding and ending impunity and ensuring legal accountability, including individual criminal and command responsibility;*

This inquiry must deal with facts and hold the terrorists, Hamas and the Palestinian Authority, accountable for their many crimes, their promotion and conducting of terror, the murder of innocent people, and their constant incitement. Nothing will change as long as the Hamas Charter promotes the destruction of Israel, death to Jews, and the leadership refuses to negotiate a permanent peace. Likewise nothing will change as long as the PA educational system promotes violence against Israelis⁶³.

Accountability requires action and the UNHRC has taken no action against the perpetrators of terror, namely Hamas and the PA, and their accomplices, funders, associates and support organizations.

Singling out Israel for defending her citizens⁶⁴ cannot advance peace. It is a perversion of the noble goals of the United Nations and the Human Rights Council in particular.

5. *Recommendations on measures to be taken by third States to ensure respect for international humanitarian law in the Occupied Palestinian Territory, including East Jerusalem.*

Since the very premise of this inquiry is based on falsehoods and anti-Israel sentiments and fabrications, there is no expectation that recommendations to hold the guilty accountable will ever be adopted, yet alone implemented.

If peace is ever to be achieved between the Palestinian Arabs and the Israeli government, the change has to come from the Arabs. Israel wants peace. The Arab Palestinian leaders want the destruction of Israel⁶⁵. Today, peace exists with the realists and the Arab countries that want more for their citizens than the “dead or else” wishes of Hamas and the Palestinian Authority⁶⁶.

Third party countries, like Aotearoa New Zealand, can hold the Arab governing bodies accountable: cut off PA funding for pay-for-slay policies⁶⁷; refuse to fund UNRWA and move the responsibility for real refugees to where it rightfully belongs with UNHCR⁶⁸; and eliminate the training of terrorists and so-called martyrs.

Third party states, like Aotearoa New Zealand, can call for a thorough investigation of the fraud and embezzlement that is suspected by the PA^{69,70} who are not developing opportunities for young Arabs

⁶⁰ *ibid*

⁶¹ https://98f2f7f5-93ed-4a21-b23f-3f28cbb690f5.filesusr.com/ugd/3445b6_727f4323a7d047eeb3a02224bc455ae3.pdf

⁶² <https://www.fdd.org/analysis/2021/06/23/hold-hamas-accountable-for-human-shields-use-during-the-may-2021-gaza-war/>

⁶³ New Zealand funds UNRWA schools that use the PA textbooks (<https://israelinstitute.nz/reports/iinz-report-on-new-zealand-support-for-unrwa/>).

⁶⁴ <http://high-level-military-group.org/pdf/himg-interim-assessment-gaza-conflict-may-2021.pdf>

⁶⁵ <https://www.jns.org/opinion/why-do-radicals-support-palestinians-seeking-to-destroy-israel-and-kill-jews/>

⁶⁶ <https://www.ipost.com/middle-east/abraham-accords-one-year-later-the-inside-story-676440>

⁶⁷ <https://nypost.com/2021/08/13/pay-to-slay-is-the-true-face-of-the-peace-process-for-israelis-and-palestinians/>

⁶⁸ <https://israelinstitute.nz/reports/iinz-report-on-new-zealand-support-for-unrwa/>

⁶⁹ <https://www.gatestoneinstitute.org/12103/palestinian-authority-corruption>

⁷⁰ <https://bit.ly/34qsv7n>

nor promoting peace, and cut off funds and support for Hamas which spends donor development funds on building terror tunnels, rockets and other forms of destruction of Israel⁷¹.

Take action

We urge Aotearoa New Zealand to stand up to the clear bias and obvious kangaroo court by openly opposing the process and the apparently predetermined outcomes. As this inquiry is without a purpose, other than to demonize Israel, it should and must be stopped.

It is deeply disappointing that officials and representatives of Aotearoa New Zealand have justified funding incitement against Israel^{72,73}; voted against Israel more like despotic, antisemitic countries than traditional, democratic allies⁷⁴; failed to designate Hamas or Hezbollah as terror organisations, out of step with traditional allies⁷⁵; tolerate a government quango participating in BDS activity⁷⁶; and regularly ignore terror attacks when they are against Jews or Israelis⁷⁷. These actions suggest that Aotearoa New Zealand, in reality, operates by a peculiar set of "values".

Your further action(s) or inaction(s) on the latest attack on Israel - the "Independent Commission of Inquiry" - may help shift perception about exactly what constitutes Aotearoa New Zealand's principles. We hope you will not pass up this opportunity.

Ngā mihi,



Dr David Cumin
Co-Director
IINZ

⁷¹ <https://www.foxnews.com/world/hamas-backers-spend-fortunes-on-rockets-and-tunnels-while-gazans-live-in-misery>

⁷² <https://israelinstitute.nz/2021/01/a-timeline-of-new-zealand-funding-hate/>

⁷³ <https://israelinstitute.nz/2021/01/a-timeline-of-new-zealand-funding-hate/>

⁷⁴ <https://israelinstitute.nz/reports/mfat-advice-on-new-zealand-voting-at-un-with-regard-to-israel/>

⁷⁵ https://docs.google.com/document/d/1TYFFxb2NjKkCZOgzoWb_csruJ-dPNzz2iGuiQasgb7o

⁷⁶ <https://israelinstitute.nz/2021/03/nz-super-fund-undermines-nzs-reputation-as-a-fair-actor/>

⁷⁷ <https://twitter.com/IsraellnstNZ/status/1462626486419341312>