The UN “Commission of Inquiry” into the Israel-Gaza Conflict Abuses the UN Charter

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<https://jcpa.org/the-un-commission-of-inquiry-into-the-israel-gaza-conflict-abuses-the-un-charter/>

In May 2021, the UN Human Rights Council established an “ongoing independent, international Commission of Inquiry” to investigate “all alleged violations of international humanitarian law and all alleged violations and abuses of international human rights law leading up to and since April 13, 2021, in the Occupied Palestinian Territory, including East Jerusalem, 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.”[1](https://jcpa.org/the-un-commission-of-inquiry-into-the-israel-gaza-conflict-abuses-the-un-charter/%22%20%5Cl%20%22_edn1)

This biased and one-sided mandate says much about the hypocrisy and double standards throughout the UN system and the penchant for singling out Israel. This fixation of the Human Rights Council, as exemplified in the mandate of the Inquiry Commission, is not new and is repeated annually, sadly becoming accepted UN practice.

Such a questionable practice is irreconcilable with, and even ultra vires, one of the fundamental purposes of the UN itself, as set out in the opening article of its Charter, of harmonizing the actions of nations, as well as the principle of sovereign equality, so essential to the functioning of the organization.[2](https://jcpa.org/the-un-commission-of-inquiry-into-the-israel-gaza-conflict-abuses-the-un-charter/%22%20%5Cl%20%22_edn2)

In addition to this violation of the UN’s founding principles, the appointment and functioning of the three members of the Inquiry Commission – former UN Human Rights High Commissioner Navi Pillay as chair, and human rights “experts” Miloon Kothari (India) and Chris Sidoti (Australia) – reek of bias, lack of objectivity, and acute partiality, in stark violation of the UN Charter and Staff Rules and Regulations.

These commission members have never concealed their negative predilections toward Israel. On the contrary, they are openly on record promoting harsh and defamatory accusations against Israel and even anti-Semitic slurs and tropes.[3](https://jcpa.org/the-un-commission-of-inquiry-into-the-israel-gaza-conflict-abuses-the-un-charter/%22%20%5Cl%20%22_edn3)

### What the UN Charter Says

Appointing these people to a UN Inquiry Commission contravenes provisions of the UN Charter requiring the appointment of officials exercising “highest standards of efficiency, competence and integrity” and requiring such officials to refrain from “actions that might reflect on their position as international officials” (UN Charter, Articles 100 and 101).[4](https://jcpa.org/the-un-commission-of-inquiry-into-the-israel-gaza-conflict-abuses-the-un-charter/%22%20%5Cl%20%22_edn4)

The official UN Staff Rules and Regulations that implement the Charter provisions regarding the administration and performance of UN staff members and officials specifically require that political and religious views and convictions of UN officials and staff do not adversely affect their official duties or the interests of the United Nations.[5](https://jcpa.org/the-un-commission-of-inquiry-into-the-israel-gaza-conflict-abuses-the-un-charter/%22%20%5Cl%20%22_edn5)

These rules prohibit engaging in an activity incompatible with the proper discharge of their duties, including avoiding actions and public pronouncements that may adversely reflect on their status or the integrity, independence, and impartiality required by that status (Article I, regulations 1.1 and 1.2).

As observed by Prof. Anne Bayefsky in her articles referenced below on the Inquiry Commission, the appointment and activity of these commission members also contravene accepted codes of conduct and standards of ethical behavior and professional conduct applicable to the Human Rights Council. These all require that UN officials conduct themselves with the highest standards of objectivity, fairness, impartiality, transparency, moral authority, integrity, honesty, good faith, and credibility while also avoiding double standards and politicization.[6](https://jcpa.org/the-un-commission-of-inquiry-into-the-israel-gaza-conflict-abuses-the-un-charter/%22%20%5Cl%20%22_edn6)

### Conclusion

It is inconceivable that the United Nations permits the continued functioning of the Inquiry Commission in light of the inherent incompatibility of the commission’s mandate with the purposes and principles of the UN as set out in its Charter.

Its continued functioning violates those provisions of the UN Charter and UN official Staff Rules and Regulations prohibiting the acute and public bias and double standards voiced by all commission members.

The continued functioning of the commission and the continued engagement of those commission members places in question the very credibility of the UN.

Serious consideration should be given to terminating the functioning and financing of this Inquiry Commission.

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**Notes**

[1](https://jcpa.org/the-un-commission-of-inquiry-into-the-israel-gaza-conflict-abuses-the-un-charter/%22%20%5Cl%20%22_ednref1) <https://www.ohchr.org/en/hr-bodies/hrc/co-israel/index>

[2](https://jcpa.org/the-un-commission-of-inquiry-into-the-israel-gaza-conflict-abuses-the-un-charter/%22%20%5Cl%20%22_ednref2) <https://www.un.org/en/about-us/un-charter/chapter-1>

[3](https://jcpa.org/the-un-commission-of-inquiry-into-the-israel-gaza-conflict-abuses-the-un-charter/%22%20%5Cl%20%22_ednref3) <https://jcpa.org/article/the-un-descent-to-its-deepest-depths-of-hostility-against-israel/> See also Prof. Anne Bayefsky <https://jcpa.org/article/the-un-human-rights-councils-commission-of-inquiry-goes-openly-antisemitic/> and <https://jcpa.org/the-latest-un-commission-of-inquiry-on-occupied-palestinian-territory-is-an-inquisition/> and <https://jcpa.org/article/the-un-commission-of-inquiry-an-exercise-in-historical-revisionism/>

[4](https://jcpa.org/the-un-commission-of-inquiry-into-the-israel-gaza-conflict-abuses-the-un-charter/%22%20%5Cl%20%22_ednref4) UN Charter, Chapter 15 on the UN Secretariat <https://www.un.org/en/about-us/un-charter/chapter-15>

[5](https://jcpa.org/the-un-commission-of-inquiry-into-the-israel-gaza-conflict-abuses-the-un-charter/%22%20%5Cl%20%22_ednref5) <https://hr.un.org/handbook/staff-rules>

[6](https://jcpa.org/the-un-commission-of-inquiry-into-the-israel-gaza-conflict-abuses-the-un-charter/%22%20%5Cl%20%22_ednref6) “Code of Conduct for Special Procedures Mandate-holders,” Annex (Articles 3 (a), 3(e), 5, 8, 13(b)), UN Human Rights Council Resolution A/HRC/RES/5/2, June 18, 2007, <https://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/RES/5/2>; “United Nations Human Rights Council: Institution-building,” Annex, II. Special Procedures, A. Selection and appointment of mandate-holders, Article 39, UN Human Rights Council Resolution A/HRC/RES/5/1, June 18, 2007, <https://ap.ohchr.org/documents/dpage_e.aspx?si=a/hrc/res/5/1>