

**UN Human Rights Council “Commission of Inquiry” on Israel
created May 27, 2021 by resolution A/HRC/RES/S-30/1**

Name (*optional*): The Baroness Deech DBE QC (on behalf of the undersigned)

Organization (*optional*): House of Lords, United Kingdom

Biography

Baroness Deech is a Crossbench Peer in the House of Lords of the United Kingdom.

Issue(s) to which your submission applies (*Mandatory; choose one or more by highlighting or repeating at the top of your submission*):

- (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;
- (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;
- (3) Identification of those responsible;
- (4) Recommendations on accountability measures, with a view to avoiding and ending impunity and ensuring legal accountability, including individual criminal and command responsibility;
- (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.

Submission:

The United Nations Independent International Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem and Israel

On 27th May 2021, the United Nations Human Rights Council (UNHRC) at a special session voted to establish a Commission of Inquiry following unprovoked attacks on Israel by widely designated terrorist organisations in Gaza. This submission is submitted under issue (1) of the Inquiry’s mandatory focuses, arguing that the root causes of tensions facing Israelis and Palestinians are exacerbated by the partiality

of the United Nations and its agencies, in particular the United Nations Relief and Works Agency (UNRWA) and its inculcation of anti-peace narratives.

The deep-seated partiality of the United Nations, its agencies and the Commission leadership of this Inquiry is symptomatic of the failure of the UN itself to serve as a credible platform working toward the resolution of the Israeli-Palestinian conflict. Furthermore, as argued in section two, the UN exacerbates Israeli-Palestinian tensions through its provision of deeply anti-Israel education content via UNRWA. The below outlines in detail the history of bias and partiality which has exacerbated tensions in the region.

1. Credibility and Impartiality of the United Nations and it's Agencies

Former UN Secretary General Javier Pérez de Cuéllar highlighted impartiality as critical to the functioning of UN bodies and it has been a necessary condition for successful peacekeeping operations. However, with regard to the Israeli-Palestinian conflict, UN bodies and deliberations have been overtly and unfairly partial against the State of Israel. Rather than serving as in an unbiased, mediating role the United Nations General Assembly, the UN Human Rights Council and this Commission of Inquiry are not in keeping with the UN's principle of impartiality with reference to the Israeli-Palestinian conflict.

From 2012 to 2015, 86 percent of all country-specific resolutions passed by the General Assembly were directed at Israel only. Since 2015, there have been 113 votes against Israel specifically at the UN General Assembly, whilst there have been 43 condemnatory votes combined against Iran (5), North Korea (6), Syria (8), Myanmar (4) and Russia (12). In the 2018-2019 General Assembly session alone, there were 21 country-specific resolutions about Israel and six about the rest of the world.

In the first six years of the UN Human Rights Council, from 2006 to 2012, the council adopted 76 condemnatory resolutions, of which 47 targeted Israel. Overall, Israel has been condemned at the Council 94 times since 2006. With regard to Special Sessions at the Council, since 2006 and including the 27th May 2021 special session, the UN Human Rights Council has held 30 Special Sessions; of the 24 sessions that criticise countries, more than 35 percent have targeted Israel. The Special Session establishing this Inquiry was the ninth such session of the Human Rights Council targeting Israel. As a consequence of this inquiry, Israel will now be only one of two of 193 UN member states to have any permanent staff at the Office of the UN High Commissioner of Human Rights devoted to investigating it. This Inquiry is only one of two such bodies ever created with a continuing mandate of this kind.

The myopic focus of the Human Rights Council on Israel stands in stark contrast to the lack attention paid to egregious human rights abuses committed by other states. Of the most repressive states in the world as defined by Freedom House, countries such as Iran, North Korea, and Belarus are criticized in only one resolution annually and most undemocratic, repressive regimes are not criticized at all.

The leadership of the Commission individually reflect this myopic attention and deeply engrained partiality against Israel. During her time as UNHCR High Commissioner, Commissioner Pillay (South Africa) appointed no less than four fact-finding missions targeting Israel, more than any other country, including the Goldstone Report, which was later discredited by its lead author. She appointed the notoriously anti-Israel professor of international law Richard Falk as special rapporteur for the Palestinians. Of greatest concern, Ms. Pillay convened the Durban II conference against racism, which

gave antisemitic former Iranian president Mahmoud Ahmadinejad a platform to deny the Holocaust. The inaugural UN World Conference Against Racism was plagued by antisemitism, leading many nations to boycott subsequent meetings including 2021's iteration.

The outright anti-Israel bias exhibited by other Commission Members equally discredits the Inquiry and makes any claims of impartiality untenable. Commissioner Sidoti (Australia) has worked closely with Palestinian NGOs for more than 15 years. The Palestinian Authority's Independent Commission for Human Rights called him a "close friend and ally." Commissioner Sidoti has supported the Australian Centre for International Justice (ACIJ) which, together with the Palestinian Human Rights Organization Council, published a 2021 report demanding the Australian government endorse the Boycott-Divestment-Sanctions (BDS) campaign and the criminal prosecution of Israelis. The ACIJ furthermore signed and promoted a letter accusing Israel of "apartheid" and "colonialism". The BDS campaign has been described as inherently antisemitic by international human rights scholars, including the Hon. Irwin Cotler. Commissioner Kothari (India) issued a report in which he described the Second Intifada, during which thousands of Israelis of all backgrounds were murdered and maimed in acts of terrorism, as a "wave of Palestinian resistance in September 2000." He alleged Israel was guilty of "ethnic cleansing" and alleged that Israel had a "theocratic" legal system based on "ethnic criteria." Commissioner Kothari's interventions have bordered antisemitism as defined by the IHRA definition, including in his statement that the 2021 conflict was somehow underlined by the "the colonization activities" of the "World Zionist Organization and Jewish National Fund."

Given the history of obsessive attention at the UN in general and the Human Rights Council in particular, and the record of overtly biased views and actions of the Inquiry's Commissioners in relation to Israel and Palestine, this Inquiry does not uphold the UN's principle of impartiality. The UN's track record of impartiality on this issue furthers tension between Israelis and Palestinians as it is consequently unable to perform its historic role as an unbiased, mediating platform for conflict resolution.

2. Culpability of the UN in Continuing Conflict Tensions

In addition to United Nations bodies and leadership being unfit to impartially mediate a resolution to the Israeli-Palestinian conflict and therefore contributing to its underlying tensions, the United Nations is culpable as an institution for the continuation of conflict tensions through the United Nations Relief and Works Agency for Refugees in the Near East (UNRWA).

Founded in 1949 following the Israeli war of Independence, UNRWA's mandate was to provide support for Jewish and Arab refugees. The Israeli government took over support for Jewish refugees in 1952. Now, UNRWA is the only UN refugee agency supporting refugees that is separate from the UNHCR (UN High Commission for Refugees). UNRWA's mandate and operations contribute to the tensions underlying conflict between Israelis and Palestinians for a range of reasons. Firstly, UNRWA is unique in perpetually designating individuals as refugees through the intergenerational inheritance of status. Infrastructure for refugees is normally aimed at supporting individuals and families during periods of stateless transition until such time as they can return safely to their country of origin or are resettled elsewhere. UNRWA's perpetual designation of refugee-status for Palestinians have left multiple generations unable to attain the benefits of citizenship and to integrate into state communities. The perpetuation of refugee status has ensured that one of the critical outstanding issues for resolving the Israeli-Palestinian conflict remains unaddressed.

Secondly, a 'narrative of resistance' opposing a peaceful final status-agreement involving two states is inculcated by UNRWA officials through educational programming and this has perpetuated unreasonable and impossible expectations amongst the Palestinian population. As argued by authors Dr Einat Wilf and Adi Schwartz in their book *The War of Return* (2020), these false expectations and destructive narratives have handicapped efforts at peace-making with Israel, whereby Palestinian leadership is unable to reach a final status solution with the government of Israel as they cannot agree to peace that results in a sovereign, Jewish-majority Israeli state. Rather than embedding narratives of tolerance, peace and acceptance within the Palestinian population in accordance with UN values, UNRWA has instead instilled in generations of Palestinians a conflict-narrative deeply hostile to the sovereignty of Israel or Jewish nationhood.

Thirdly and relatedly, UNRWA's institutions promote violent, anti-peace and often antisemitic content. The Hebrew University-based research organisation, IMPACT-se released a widely read report in January 2021 finding that educational content produced by UNRWA is filled with hate and encouragement to jihad, violence and martyrdom, and entirely devoid of any material that promotes peace and peace-making. A 2021 report by the George Eckert Institute uncovered similar materials. Examples include materials calling for the eradication of Israel, the glorification of violence such as the First Intifada and conspiracy theories that Israel dumps toxic waste into the West Bank. States have taken action in response to this gross misuse of UN resources. Following the emergence of this information, the Canadian government announced that it would investigate its contributions to UNRWA. The country's development minister expressed its concerns about content within the materials contravening UN values of human rights, tolerance, neutrality and non-discrimination. The Australian government also announced that it would be investigating its contributions to UNRWA in January 2021. The UK government cut UNRWA's funding by at least half in 2021. Donor states are concerned about the anti-peace content promoted in UNRWA educational materials which perpetuate narratives of conflict rather than peace.

Finally, the inherent bias against Israel noted in the first section of this document is present amongst UNRWA staff members themselves. The NGO UN Watch released a report in August 2021 finding that over 100 UNRWA educators and staff have publicly promoted violence and antisemitism on social media. The report, entitled "Beyond the Textbooks," uncovered 22 recent cases of UNRWA staff incitement which clearly violate the agency's own rules as well as its proclaimed values of zero tolerance for racism, discrimination or antisemitism.

UNRWA's perpetuation of refugee status, its inculcation of anti-peace narratives and use of inflammatory materials, as well as the bias of its staff against Israel is evidence that the United Nations, its agencies and leadership are exacerbating tensions which serve to perpetuate the conflict between Israelis and Palestinians.

Conclusion

It is right that an independent, impartial and evidence-based investigation be undertaken into the causes of the conflict between Israel and Hamas and Islamic Jihad in May 2021. The vicious cycle of violence that routinely terrorises and harms Israelis and Palestinians of all backgrounds is an ongoing tragedy that must cease. Such a credible investigation would no doubt point to the indiscriminate use of

offensive weapons by terrorists which almost entirely impact civilians and civilian locations; the use of human shields, child soldiers and civilian infrastructure by terrorists in contravention of UN conventions; the stated purpose of terrorist groups to destroy the State of Israel and enshrine a commitment to war rather than peace, as well as the involvement of malign state forces who encourage and support conflict rather than peace between Israelis and Palestinians.

Rather than serving as an impartial investigatory platform and as a conflict mediator, the United Nations and its agencies have instead exacerbated the tensions fuelling the Israeli-Palestinian conflict through deep-seated anti-Israel bias and its inculcation of anti-peace narratives.

Baroness Deech

Lord Leigh of Hurley

Lord Palmer of Childs Hill

Lord Pickles

Lord Polak CBE

Lord Turnberg

Baroness Ramsay of Cartvale