

THE TIME IS NOW TO REFORM THE UN HUMAN RIGHTS APPARATUS

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Two key decision points — one later this month, another in September — will determine whether the UN human rights apparatus starts implementing its founding principles or remains a vehicle for the world’s most abusive governments to distract attention from their own violations by focusing UN resources on condemning Israel.

First, by the end of August, Secretary-General António Guterres will have to nominate a new high commissioner for human rights, the top UN human rights official. The outgoing high commissioner, Michele Bachelet, has been unwilling to speak candidly about China’s grave abuses and has been incapable of pressuring Beijing to change.

Second, when the next regular session of the UN Human Rights Council (UNHRC) convenes on September 12, it will have an opportunity to dissolve its Commission of Inquiry (COI) on the Israeli-Palestinian conflict. The COI’s mandate and commissioners are egregiously biased. The UNHRC will also have an opportunity to rescind the appointment of Francesca Albanese, the biased special rapporteur on the situation of human rights in the Palestinian territories.

The world’s most repressive dictatorships have dominated the UNHRC since its founding in 2006. Whereas the administrations of Presidents George W. Bush¹ and Donald Trump² rejected participation in the council, the Biden administration rejoined it in January, announcing a commitment to reform the body³ and asserting that “positive change is within reach.”⁴

Members of Congress and human rights supporters everywhere should encourage and help the Biden administration to seize the two pivotal opportunities ahead to reform the UN human rights apparatus.⁵

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1. “The United Nations Human Rights Council: Background and Policy Issues,” *Congressional Research Service*, April 20, 2020. (<https://crsreports.congress.gov/product/pdf/RL/RL33608/56>)
2. Nahal Toosi, “U.S. Withdrawing from U.N. Human Rights Council,” *Politico*, June 19, 2018. (<https://www.politico.com/story/2018/06/19/us-withdraw-un-humans-rights-council-653988>)
3. Secretary of State Antony J. Blinken, U.S. Department of State, Press Statement, “Election of the United States to the UN Human Rights Council (HRC),” October 14, 2021. (<https://www.state.gov/election-of-the-united-states-to-the-un-human-rights-council-hrc>)
4. Secretary of State Antony J. Blinken, U.S. Department of State, Press Statement, “U.S. Decision to Reengage with the UN Human Rights Council,” February 8, 2021. (<https://www.state.gov/u-s-decision-to-reengage-with-the-un-human-rights-council>)
5. This memorandum will use the term “UN human rights apparatus” to refer collectively to the various human rights bodies of the United Nations, including the high commissioner for human rights, the office the high commissioner directly supervises, the Human Rights Council, and related instruments and mechanisms.

BACHELET'S TERM DOMINATED BY DOUBLE STANDARDS

As the top UN human rights official, the high commissioner supervises a staff of over 1,600,⁶ executes a \$350 million annual budget,⁷ and runs some two dozen offices around the world.⁸ The Office of the High Commissioner for Human Rights (OHCHR) also serves as the secretariat for the UNHRC, responsible both for providing recommendations to the council and for helping implement its decisions. The OHCHR also serves as a secretariat for, or otherwise supports, some 58 special rapporteurs and other “independent human rights experts” with thematic or country mandates,⁹ as well as a dozen active commissions of inquiry, fact-finding missions, and similar investigations established by the UNHRC.¹⁰

The 1994 General Assembly resolution that created the position of high commissioner specified that its duties must be performed in a manner that is “impartial, objective, non-selective and effective.”¹¹ Bachelet’s performance has fallen far short of these criteria.

WHITEWASHING CHINA’S ABUSES

Bachelet’s announcement that she would not seek a second term as high commissioner came after she faced severe criticism for her deference to Beijing during a May 2022 visit to Xinjiang, including accusations by Uyghur activists that she parroted Chinese talking points.¹² Bachelet has also apparently delayed for months the publication of a report by her staff on China’s abuses of the Uyghurs.¹³

In addition, numerous whistleblower organizations, including Transparency International, have sharply criticized Bachelet for mishandling the case of Emma Reilly, a staff member fired in November 2021 for alleging that Bachelet and her predecessors wrongfully handed the names of Uyghur dissidents to Beijing.¹⁴ The Chinese government reportedly arrested and tortured the named individuals, one of whom died as a result.¹⁵ The whistleblower

6. Office of the United Nations High Commissioner for Human Rights, “United Nations Human Rights Report 2021,” May 2022. (https://www.ohchr.org/sites/default/files/2022-06/OHCHR_Report_2021.pdf)

7. Office of the United Nations High Commissioner for Human Rights, “OHCHR’s Funding and Budget,” accessed August 20, 2022. (<https://www.ohchr.org/en/about-us/funding-and-budget>)

8. Office of the United Nations High Commissioner for Human Rights, “Where We Work,” accessed August 20, 2022. (<https://www.ohchr.org/en/about-us/where-we-work>)

9. Office of the United Nations High Commissioner for Human Rights, “Special Procedures of the Human Rights Council,” accessed August 20, 2022. (<https://www.ohchr.org/en/special-procedures-human-rights-council>)

10. United Nations Human Rights Council, “International Commissions of Inquiry, Commissions on Human Rights, Fact-Finding missions and other Investigations,” accessed August 20, 2022. (<https://www.ohchr.org/en/hr-bodies/hrc/co-is>)

11. United Nations General Assembly, Resolution 48/141, December 20, 1993. (<https://digitallibrary.un.org/record/180226?ln=en>)

12. Asim Kashgarian, “UN Rights Chief is Urged to Resign After China Visit,” *Voice of America*, June 3, 2022. (<https://www.voanews.com/a/un-rights-chief-is-urged-to-resign-after-china-visit-/6602561.html>); Rayhan Asat, “Why I expected more from the UN human rights chief,” *Atlantic Council*, June 18, 2022. (<https://www.atlanticcouncil.org/blogs/new-atlanticist/why-i-expected-more-from-the-un-human-rights-chief>)

13. Emma Farge and Wendell Roelf, “Michelle Bachelet, U.N. rights chief, says no to second term amid China trip backlash,” *Reuters*, June 13, 2022. (<https://www.reuters.com/world/un-rights-chief-says-she-will-not-seek-second-term-2022-06-13>)

14. Henry Samuel, “UN shared names of Chinese dissidents with Beijing, says sacked whistleblower,” *The Telegraph* (UK), November 11, 2021. (<https://www.telegraph.co.uk/world-news/2021/11/11/un-shared-names-chinese-dissidents-beijing-says-sacked-whistleblower>)

15. Ibid.

organizations have made credible assertions that Bachelet's office unjustifiably overturned a UN ethics panel finding in favor of Reilly and then wrongly fired her.¹⁶

The UNHRC has also shown it is unwilling to confront China's abuses. Since the council's founding in 2006, it has never created a commission¹⁷ to investigate — or even passed a single resolution¹⁸ criticizing — China. This is despite China's egregious¹⁹ and worsening²⁰ overall human rights record; Freedom House currently assigns China the second-worst political rights score of any country in the world.²¹ That record includes a drastic curtailing of human rights in Hong Kong,²² and actions in Xinjiang that the Biden administration has termed “genocide,”²³ including imprisonment of more than a million Uyghurs.²⁴

BASHING ISRAEL

The UNHRC has, since its founding in 2006, issued 99 resolutions condemning Israel.²⁵ The number of resolutions condemning Israel, a robust democracy rated “Free” by the respected Freedom House,²⁶ is roughly the same as the total number of resolutions condemning all other countries.²⁷ Currently, the United Nations has seven formal bodies (listed below) investigating Israel. In addition to the aforementioned COI, the United Nations has:

- a Division for Palestinian Rights,²⁸
- a Committee on the Exercise of the Inalienable Rights of the Palestinian People,²⁹

16. “Civil Society Statement on the firing of UN human rights whistleblower Emma Reilly,” *Whistleblowing International Network*, November 16, 2021. (<https://whistleblowingnetwork.org/News-Events/News/News-Archive/Civil-Society-Statement-on-the-firing-of-UN-human>)

17. United Nations Human Rights Council, “List of HRC-mandated Commissions of Inquiries/Fact-Finding Missions & Other Bodies (as of May 2022),” accessed August 20, 2022. (<https://www.ohchr.org/en/hr-bodies/hrc/list-hrc-mandat>)

18. @HillelNeuer, *Twitter*, June 7, 2022. (<https://twitter.com/HillelNeuer/status/1534133512546275328?s=20&t=I3U7k3R5xzDYUnf2wEhyWQ>)

19. “Freedom in the World 2022: China,” *Freedom House*, accessed August 20, 2022. (<https://freedomhouse.org/country/china/freedom-world/2022>)

20. “China,” *Freedom House*, accessed August 20, 2022. (<https://freedomhouse.org/country/china>)

21. “Countries and Territories,” *Freedom House*, accessed August 20, 2022. (<https://freedomhouse.org/countries/freedom-world/scores?sort=asc&order=Political%20Rights>)

22. U.S. Department of State, “2021 Country Reports on Human Rights Practices: China (Includes Hong Kong, Macau, and Tibet) – Hong Kong,” April 12, 2022. (<https://www.state.gov/reports/2021-country-reports-on-human-rights-practices/china/hong-kong>)

23. Secretary of State Antony Blinken, U.S. Department of State, “Secretary Antony J. Blinken at a Press Availability,” *Remarks to the Press*, January 27, 2021. (<https://www.state.gov/secretary-antony-j-blinken-at-a-press-availability>)

24. Lindsay Maizland, “Backgrounder: China's Repression of Uyghurs in Xinjiang,” *Council on Foreign Relations*, March 1, 2021. (<https://www.cfr.org/backgrounder/chinas-repression-uyghurs-xinjiang>)

25. @HillelNeuer, *Twitter*, June 7, 2022. (<https://twitter.com/HillelNeuer/status/1534133512546275328?s=20&t=I3U7k3R5xzDYUnf2wEhyWQ>)

26. “Freedom in the World 2022: Israel,” *Freedom House*, accessed August 20, 2022. (<https://freedomhouse.org/country/israel/freedom-world/2022>)

27. @HillelNeuer, *Twitter*, June 7, 2022. (<https://twitter.com/HillelNeuer/status/1534133512546275328?s=20&t=I3U7k3R5xzDYUnf2wEhyWQ>)

28. United Nations, “Division for Palestinian Rights,” accessed August 20, 2022. (<https://www.un.org/unispal/about-division-palestinian-rights>)

29. United Nations, “UN Committee on the Exercise of the Inalienable Rights of the Palestinian People,” accessed August 20, 2022. (<https://www.un.org/unispal/committee>)

- a United Nations Information System on the Question of Palestine,³⁰
- a “Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967,”³¹
- a Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories,³²
- and a United Nations Register of Damage Caused by the Construction of the Wall in the Occupied Palestinian Territory.³³

The United Nations’ disproportionate focus on Israel serves to distract attention from the systemic abuses committed by some of the UNHRC’s own members,³⁴ which currently include the following countries rated “Not Free” by Freedom House: Cameroon, China, Cuba, Eritrea, Gabon, Kazakhstan, Libya, Qatar, Somalia, Sudan, Uzbekistan, and Venezuela.³⁵

The double standard is literally contrary to the UN General Assembly resolution that created the UNHRC, which stressed the importance of eliminating the “double standards and politicization” that had plagued its predecessor, the UN Commission on Human Rights.³⁶ It is also clearly at odds with the General Assembly resolution that created the post of high commissioner for human rights, which emphasizes “the need for the promotion and protection of all human rights to be guided by the principles of impartiality, objectivity and non-selectivity.”³⁷ Secretary-General Guterres should select as the next high commissioner someone dedicated to immediately refocusing the UN human rights apparatus on these founding principles.

U.S. LEVERAGE FOR REFORM

New leaders have shown they can quickly reorient international organizations. For example, Karim Khan has sensibly rebalanced the International Criminal Court’s priorities since he became its prosecutor in June 2021.³⁸ Likewise, as director general of the International Atomic Energy Agency, Rafael Grossi has been demonstrably more rigorous than his predecessor in addressing Iran’s nuclear program.³⁹ Thus, it is imperative for Washington to make its concerns clear to the secretary-general before he chooses Bachelet’s successor.

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 30. United Nations, “United Nations Information System on the Question of Palestine,” accessed August 20, 2022. (<https://www.un.org/unispal/data-collection>)

31. Office of the United Nations High Commissioner for Human Rights, “Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967,” accessed August 20, 2022. (<https://www.ohchr.org/en/special-procedures/sr-palestine>)

32. Office of the United Nations High Commissioner for Human Rights, “Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories,” accessed August 20, 2022. (<https://www.ohchr.org/en/countries/palestine/special-committee-reports>)

33. United Nations, “United Nations Register of Damage Caused by the Construction of the Wall in the Occupied Palestinian Territory,” accessed August 20, 2022. (<https://www.unrod.org>)

34. UN Human Rights Council, “Membership of the Human Rights Council for the 16th cycle, 1 January – 31 December 2022,” accessed August 20, 2022. (<https://www.ohchr.org/en/hr-bodies/hrc/current-members>)

35. “Countries and Territories,” *Freedom House*, accessed August 20, 2022. (<https://freedomhouse.org/countries/freedom-world/scores>)

36. United Nations General Assembly, Resolution 60/251, March 15, 2006. (<https://www.ohchr.org/en/hr-bodies/hrc/about-council>)

37. United Nations General Assembly, Resolution 48/141, December 20, 1993. (<https://documents-dds-ny.un.org/doc/UNDOC/GEN/N94/012/56/PDF/N9401256.pdf?OpenElement>)

38. Stephanie van den Berg, “ICC prosecutor defends war crimes probe of Afghanistan’s Taliban,” *Reuters*, December 9, 2021. (<https://www.reuters.com/world/asia-pacific/icc-prosecutor-defends-war-crimes-probe-afghanistans-taliban-2021-12-09>)

39. Andrea Stricker and Behnam Ben Taleblu, “In the Iran nuclear crisis, the IAEA stands alone,” *The Hill*, June 14, 2021. (<https://thehill.com/opinion/national-security/558240-in-the-iran-nuclear-crisis-the-iaea-stands-alone>)

To that end, the Biden administration should leverage its role as the top funder of UN human rights work. The United States contributes 22 percent of the OHCHR's regular budget, far more than any other UN member.⁴⁰ The U.S. contribution accounts for approximately \$29 million of the office's \$134 million regular budget for 2022.⁴¹ By contrast, China contributes 15.25 percent of the regular budget.⁴² Furthermore, the United States voluntarily contributed another \$26.7 million to the high commissioner's office in 2021, accounting for about 12 percent of the \$227.5 million total in voluntary contributions, while China's voluntary contributions last year totaled only \$800,000.⁴³ Washington should insist that Secretary-General Guterres nominate a high commissioner who will be a responsible steward of U.S. taxpayer funds, ensuring they do not facilitate the whitewashing of dictatorships or the bashing of Israel.

TIME TO CLOSE THE COI

THE COI'S BIASED COMMISSIONERS VIOLATE UN RULES

Miloon Kothari, one of three members of the UNHRC's COI on the Israeli-Palestinian conflict, denounced the "Jewish lobby" during an interview in late July. Kothari claimed such a lobby controls "social media" and has "thrown" around "a lot of money" to discredit him and his fellow commissioners. Kothari also questioned Israel's right to be a member of the United Nations.⁴⁴

The United States, the European Union, and over a dozen other countries condemned Kothari's remarks.⁴⁵ Michele Taylor, the U.S. ambassador to the UNHRC, and Deborah Lipstadt, the U.S. special envoy to monitor and combat antisemitism, both called Kothari's comments "antisemitic" as well as "outrageous, inappropriate, and corrosive."⁴⁶ Canada's ambassador to the United Nations condemned Kothari's "blatantly biased, anti-semitic comments" and said they are "a disgrace to institutions supposedly dedicated to the rule of law."⁴⁷ A senior EU official said he was "outraged" by Kothari's "antisemitic and hateful statement."⁴⁸

Kothari's comments meet the definition of antisemitism adopted by the 35 member countries of the International Holocaust Remembrance Alliance, which specifically listed the following as forms of antisemitism: allegations

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40. "United Nations Issues: U.S. Funding to the U.N. System," *Congressional Research Service*, April 5, 2022. (<https://sgp.fas.org/crs/row/IF10354.pdf>)

41. Office of the United Nations High Commissioner for Human Rights, "OHCHR's Funding and budget," accessed August 20, 2022. (<https://www.ohchr.org/en/about-us/funding-and-budget>)

42. "United Nations Issues: U.S. Funding to the U.N. System," *Congressional Research Service*, April 5, 2022. (<https://sgp.fas.org/crs/row/IF10354.pdf>)

43. Office of the United Nations High Commissioner for Human Rights, "Voluntary contributions to OHCHR in 2021," accessed August 20, 2022. (<https://www.ohchr.org/sites/default/files/2022-03/VoluntaryContributions-2021.pdf>)

44. "UN commissioner Miloon Kothari denounced for antisemitic remarks – Full Transcript," *UN Watch*, July 29, 2022. (<https://unwatch.org/un-commissioner-miloon-kothari-denounced-for-antisemitic-remarks-full-transcript>)

45. "The Compendium of World Condemnations of Antisemitic UN Investigator Miloon Kothari," *UN Watch*, August 18, 2022. (<https://unwatch.org/the-compendium-of-world-condemnations-of-antisemitic-un-investigator-miloon-kothari>)

46. @USAmbHRC, *Twitter*, July 28, 2022. (<https://twitter.com/USAmbHRC/status/1552708557950390278?s=20&t=drOagU61GmWmpqkqi-Kzxcg>); @StateSEAS, *Twitter*, July 28, 2022. (<https://twitter.com/StateSEAS/status/1552734983927877638?s=20&t=foIdj9CiKd5vYmRQOtxdJA>)

47. @BobRae48, *Twitter*, July 28, 2022. (<https://twitter.com/BobRae48/status/1552635724754812928?s=20&t=p8GYRBiVflLnG1l4lYppzw>)

48. @OliverVarhelyi, *Twitter*, July 28, 2022. (<https://twitter.com/OliverVarhelyi/status/1552728345334501377?s=20&t=768cdv-y2SKftMnjRm1FRQ>)

about “Jews controlling the media;” “denying the Jewish people their right to self-determination, e.g., by claiming that the existence of the state of Israel is a racist endeavor;” and “applying double standards” to Israel.⁴⁹

Both Kothari and Navi Pillay, the commission’s chairperson, have responded to criticism from member states by doubling down. Kothari has claimed that the United States has no right to disagree with the commission, since once the UNHRC “adopts a mechanism you have to respect it and cannot then say you can’t agree with it now.”⁵⁰ In other words, he rejects any form of accountability for himself or his fellow commissioners. In a July 28 letter to the UNHRC president, Pillay blamed Kothari’s remarks on Israel’s purported “lack of cooperation” with the COI.⁵¹

Kothari’s comments were unfortunately not surprising. He, Pillay, and their fellow commissioner, Chris Sidoti, all have well-documented histories of prejudicial statements regarding Israel.⁵²

Some of these statements preceded their being named to the commission. For example, in 2020, Pillay publicly urged governments to “Sanction Apartheid Israel!”⁵³ In June 2021, Pillay publicly called on President Joe Biden to declare Israel guilty of many of the charges she is now meant to investigate.⁵⁴

Kothari’s antisemitic comments are not the only prejudicial remarks made after the commissioners assumed their positions. In June, during an official UNHRC proceeding, Sidoti accused Jews of throwing around accusations of antisemitism “like rice at a wedding,” thereby “defil[ing] the memory of the 6 million victims of the [Holocaust].”⁵⁵ Pillay defended Sidoti’s comments in the same letter in which she blamed Kothari’s comments on Israel.⁵⁶

The appointment of these three openly biased commissioners violated UNHRC rules,⁵⁷ which mandate that such officials “should, in all cases, have a proven record of independence and impartiality.” The rules stress that it is “important to ensure that the background of candidates” for such commissions of inquiry, including their

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49. “The working definition of antisemitism,” *International Holocaust Remembrance Alliance*, accessed August 20, 2022. (<https://www.holocaustremembrance.com/resources/working-definitions-charters/working-definition-antisemitism>)

50. “UN commissioner Miloon Kothari denounced for antisemitic remarks – Full Transcript,” *UN Watch*, July 29, 2022. (<https://unwatch.org/un-commissioner-miloon-kothari-denounced-for-antisemitic-remarks-full-transcript>)

51. The letter can be found here: @HillelNeuer, *Twitter*, July 28, 2022. (<https://twitter.com/HillelNeuer/status/1552740740471705602/photo/1>)

52. “The COI: Members,” *UN Watch*, June 8, 2022. (<https://unwatch.org/the-coi-members>)

53. Pillay did so in a letter available here: “Stop the Trump-Netanyahu Steal of the Century: Sanction Apartheid Israel!” *Global South Response*, accessed August 20, 2022. (https://mcusercontent.com/36542688e353931ee951122b3/files/f6b47740-527e-4747-bb30-b348b750dd2c/Global_South_Statement_FINAL.pdf)

54. Pillay did so in a letter available here: “#NowIsTheTime: A global call to President Biden,” *Now Is the Time*, June 14, 2021. (<https://nowisthetimecoalition.com>)

55. Lazar Berman, “B’nai Brith calls to dismiss UN probe against Israel over members’ ‘odious remarks,” *The Times of Israel* (Israel), July 28, 2022. (<https://www.timesofisrael.com/bnai-brith-calls-to-dismiss-un-probe-against-israel-over-members-odious-remarks>)

56. The letter can be found here: @HillelNeuer, *Twitter*, July 28, 2022. (<https://twitter.com/HillelNeuer/status/1552740740471705602/photo/1>)

57. This memo uses the term “rules” generically as applied both to the UNHRC and to the United Nations more generally to broadly encompass the full range of formal regulations, rules, and administrative issuances as well as formally promulgated guidance issued by the United Nations and the UNHRC.

“prior public statements or political or other affiliations do not affect their independence or impartiality, or create perceptions of bias.”⁵⁸

UNHRC rules also provide that in the performance of its tasks, “[t]he commission/mission should avoid any perceptions that it could be siding with one party over another.”⁵⁹ Thus, the comments last month by Kothari and Sidoti amount to further violations.

The comments of the commissioners also contravene the guidance of the UN Ethics Office, which says:

United Nations personnel, in the performance of their official duties, shall always act with impartiality, objectivity and professionalism. They shall ensure that expression of personal views and convictions does not compromise or appear to compromise the performance of their official duties or the interests of the United Nations. They shall not act in a way that unjustifiably could lead to actual or perceived preferential treatment for or against particular individuals, groups or interests.⁶⁰

This guidance echoes⁶¹ the rules the United Nations has adopted for its personnel. If its personnel violate these fundamental standards, they are subject to disciplinary action, up to and including dismissal from their positions.⁶²

In light of their public record of bias against Israel prior to being selected, neither Kothari nor Pillay nor Sidoti should have been appointed to the COI. The appropriate remedy for that error is to terminate their appointments. The appropriateness of this remedy is reinforced and independently justified by the egregiously biased comments Kothari and Sidoti made while serving as commissioners.

At a minimum, the blatant bias of the commissioners, both prior to their appointment and in their subsequent performance in the COI, is in violation of UNHRC and UN rules requiring impartiality and merits an audit either by the UN Office of Internal Oversight Services,⁶³ which was created at the initiative of the United States to ensure the proper and efficient running of the United Nations, or by the UN Board of Auditors.⁶⁴

THE COI’S MANDATE IS FUNDAMENTALLY BIASED AND WASTEFUL

In addition to its ill-chosen commissioners, the COI has a fundamentally flawed mandate. Approved by a narrow vote of the UNHRC, that mandate is egregiously biased and unfair as well as unprecedentedly broad in scope from a chronological, geographic, and subject-matter perspective.⁶⁵ Unlike prior commissions that

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58. Office of the United Nations High Commissioner for Human Rights, “Commissions of Inquiry and Fact-Finding Missions on International Human Rights and Humanitarian Law: Guidance and Practice,” 2015. (https://www.ohchr.org/sites/default/files/Documents/Publications/CoI_Guidance_and_Practice.pdf)

59. Ibid.

60. United Nations Ethics Office, “Putting Ethics to Work: A Guide for UN Staff” 2017. (https://www.un.org/en/ethics/assets/pdfs/Attachment_2_EN_Putting%20Ethics%20to%20Work.pdf)

61. Bruce Rashkow and Gil Kapen, “UN violated its own rules, appointed biased commissioners against Israel – opinion,” *The Jerusalem Post* (Israel), July 4, 2022. (<https://www.jpost.com/opinion/article-711192>)

62. United Nations, “Staff Regulations and Rules of the United Nations,” January 1, 2018. (<https://hr.un.org/handbook/index/8278>)

63. United Nations, “Office of Internal Oversight Services,” accessed August 20, 2022. (<https://oios.un.org>)

64. United Nations, “Board of Auditors,” accessed August 20, 2022. (<https://www.un.org/en/auditors/board>)

65. Toby Dershowitz and Orde Kittrie, “Biden Can Reset the UN’s Discriminatory Approach to Israel,” *The National Interest*, February 18, 2022. (<https://nationalinterest.org/feature/biden-can-reset-un’s-discriminatory-approach-israel-200629>)

examined specific Israeli-Palestinian clashes in the West Bank and Gaza, this COI, created in May 2021,⁶⁶ is to exist in perpetuity; is mandated to search for violations in pre-1967 Israel as well as in the West Bank, Gaza, and East Jerusalem; and is clearly designed to reach the false conclusion that Israel is committing the crime of apartheid.⁶⁷

To their credit, both the Biden administration and Congress have rejected the apartheid slander⁶⁸ and opposed the COI's existence and mandate. At the United Nations in December, the United States voted for an Israeli motion to defund the COI entirely.⁶⁹ Ultimately, the United States and its allies succeeded in cutting the COI's budget by 25 percent, reducing it to about \$4.1 million. U.S. Ambassador Patrick Kennedy said Washington "will continue to oppose this COI and look for opportunities" to "revisit its mandate" and "persuade more Member States that it is inherently biased and an obstacle to the cause of peace."⁷⁰ State Department Spokesperson Ned Price later added, "[W]e firmly oppose the [COI's] open-ended and vaguely defined [mandate] ... which represents a one-sided, biased approach that does nothing to advance the prospects for peace."⁷¹

In March, a bipartisan letter from 68 U.S. senators, led by Ben Cardin (D-MD) and Rob Portman (R-OH), denounced the COI as "wasteful" and "likely to further fuel antisemitism worldwide." The letter urged the Biden administration to prioritize "leading a multinational effort" to "end" the COI. "By unfairly singling out Israel," the senators noted, "the UNHRC undermines its credibility to investigate human rights violations around the world."⁷²

On June 29, the House Appropriations Committee passed an amendment specifying that no U.S. contributions to the United Nations may be used to fund the COI.⁷³ Senate legislation that would have a similar effect awaits review by the Committee on Foreign Relations.⁷⁴

Numerous countries share the U.S. government's concerns about the COI. In June, prior to Kothari's antisemitic comments, a cross-regional group of 22 countries, including the United States, jointly expressed apprehension that the COI "will further contribute to the polarization of a situation about which so many of us are concerned." The

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66. United Nations Human Rights Council, "The United Nations Independent International Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem, and in Israel," accessed August 20, 2022. (<https://www.ohchr.org/en/hr-bodies/hrc/co-israel/index>)

67. Toby Dershowitz and Orde Kittrie, "Biden Can Reset the UN's Discriminatory Approach to Israel," *The National Interest*, February 18, 2022. (<https://nationalinterest.org/feature/biden-can-reset-un's-discriminatory-approach-israel-200629>)

68. Department Spokesperson Ned Price, U.S. Department of State, *Remarks to the Press*, February 1, 2022. (<https://www.state.gov/briefings/department-press-briefing-february-1-2022>)

69. Tovah Lazaroff, "125 countries back open-ended UNHRC war crimes probe against Israel," *The Jerusalem Post* (Israel), December 25, 2021. (<https://www.jpost.com/israel-news/article-689705>)

70. United Nations Audiovisual Library, "General Assembly: 54th Plenary Meeting (Resumed), 76th Session," December 24, 2021. (<https://www.unmultimedia.org/avlibrary/asset/2700/2700135>)

71. Department Spokesperson Ned Price, U.S. Department of State, Press Statement, "The UN Human Rights Council's Commission of Inquiry on the Situation in Israel, the West Bank, and Gaza," June 7, 2022. (<https://www.state.gov/the-un-human-rights-councils-commission-of-inquiry-on-the-situation-in-israel-the-west-bank-and-gaza>)

72. Office of Senator Rob Portman, Press Release, "Portman and Cardin Lead 68 Senators in Letter to Secretary Blinken to Prioritize Ending the United Nations Human Rights Council's Commission of Inquiry on the Israeli Palestinian Conflict," March 28, 2022. (<https://www.portman.senate.gov/newsroom/press-releases/portman-and-cardin-lead-68-senators-letter-secretary-blinken-prioritize>)

73. Office of Representative Guy Reschenthaler, Press Release, "Committee Passes Reschenthaler Amendment Banning Funding for U.N. Human Rights Council Commission of Inquiry into Israel," June 9, 2022. (<https://reschenthaler.house.gov/media/press-releases/committee-passes-reschenthaler-amendment-banning-funding-un-human-rights>)

74. S.4389, "COI Elimination Act," *117th Congress*, June 14, 2022. (<https://www.congress.gov/bill/117th-congress/senate-bill/4389>)

countries, which included Canada, France, Germany, and the United Kingdom, denounced the COI as exemplifying “the long-standing, disproportionate attention given to Israel” by the UNHRC, and said this disproportionate focus on Israel “must stop.”⁷⁵

The COI, which was created by a May 2021 UNHRC resolution that narrowly passed after being submitted by Pakistan and “the State of Palestine,”⁷⁶ could be dissolved by a new resolution submitted by the United States and its allies during the UNHRC session that begins on September 12. The savings would be especially welcome with the UN budget stretched by the COVID-19 pandemic and the war in Ukraine.

TIME TO END OR REPLACE THE SPECIAL RAPPORTEUR ON THE PALESTINIAN TERRITORIES

Another UN entity that merits dissolution is the “Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967,” whose mandate is explicitly limited to “investigat[ing] Israel’s violations,” ignoring violations committed — against either Israelis or Palestinians — by Palestinian groups.⁷⁷

The current special rapporteur, whose six-year term began in May, is Francesca Albanese, who has dedicated her career to anti-Israel advocacy.⁷⁸ Prior to her appointment, Albanese had organized and hosted an event accusing Israel of apartheid,⁷⁹ repeatedly made that accusation herself,⁸⁰ and praised a Palestinian hijacker of civilian airliners.⁸¹ After becoming the special rapporteur, Albanese dismissed as “preposterous” the view — expressed by the United States and over a dozen other countries — that Kothari’s controversial remarks were antisemitic.⁸²

As rapporteur, Albanese has also labeled Israel “an apartheid regime” and urged the European Union to terminate its trade agreement with Israel.⁸³ She has described the Palestinians as a “colonized” people⁸⁴ and said their situation

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75. Ambassador Michèle Taylor, U.S. Mission to International Organizations in Geneva, *Joint Statement Delivered at the Interactive Dialogue with the Commission of Inquiry on the Occupied Palestinian Territory*, June 13, 2022. (<https://geneva.usmission.gov/2022/06/13/id-with-the-coi-on-the-occupied-palestinian-territory-hrc50>)

76. Office of the United Nations High Commissioner for Human Rights, Press Release, “Human Rights Council Establishes International Commission of Inquiry to Investigate Violations in the Occupied Palestinian Territory, including East Jerusalem, and in Israel,” May 27, 2021. (<https://www.ohchr.org/en/press-releases/2021/05/human-rights-council-establishes-international-commission-inquiry?LangID=E&NewsID=27119>)

77. United Nations Commission on Human Rights, Resolution 1993/2, February 19, 1993. (<https://www.un.org/unispal/document/insert-180615>)

78. “UN nominates ‘Israel apartheid’ activist to be Palestine rapporteur,” *UN Watch*, February 24, 2022. (<https://unwatch.org/un-nominates-israel-apartheid-activist-to-be-palestine-rapporteur>)

79. “A panel discussion entitled ‘Israeli Apartheid Exposed: What’s Next?’” *Law for Palestine*, accessed August 20, 2022. (<https://law4palestine.org/a-panel-discussion-entitled-israeli-apartheid-exposed-whats-next>)

80. “UN nominates ‘Israel apartheid’ activist to be Palestine rapporteur,” *UN Watch*, February 24, 2022. (<https://unwatch.org/un-nominates-israel-apartheid-activist-to-be-palestine-rapporteur>)

81. Kirsty Buchanan, “UN rapporteur posted support for terror ‘icon,’” *The Jewish Chronicle*, April 14, 2022. (<https://www.thejc.com/news/world/un-rapporteur-posted-support-for-terror-%27icon%27-5wOpJTbNWvECfZ2YWwQHwH>)

82. @FranceskAlbs, *Twitter*, July 29, 2022. (<https://twitter.com/FranceskAlbs/status/1553034094296109056?s=20&t=Td8L7PosBJEfl-ypJZd40w>)

83. Omar Aziz, “Israeli apartheid as viewed from the UN,” *Mondoweiss*, July 16, 2022. (<https://mondoweiss.net/2022/07/israeli-apartheid-as-viewed-from-the-un>)

84. @FranceskAlbs, *Twitter*, July 14, 2022. (https://twitter.com/FranceskAlbs/status/1547489093617156097?s=20&t=dsUhs-aPEySw_Q6jSvFMcQ)

“requires” them to engage in violence.⁸⁵ She also branded Israel’s August 5–7 defensive actions against the terrorist group Palestinian Islamic Jihad (PIJ) as “Illegal” and “Immoral.”⁸⁶

Albanese’s accusations against Israel appear to be disconnected from the facts. She has attributed to Israel some Palestinian civilian deaths that neither the Associated Press (AP) nor the Israeli military nor even Palestinian groups attribute to Israel. For example, on August 8, the AP noted that “live TV footage” showed PIJ rockets “falling short in densely packed residential neighborhoods,” and sent its reporters to visit the sites and analyze the death toll.⁸⁷ Based on assessments by the AP and statements by the Israeli military,⁸⁸ it appears at least seven of the 17 Palestinian children who died, and at least 14 of the 29 Palestinian civilians, were killed by those PIJ rockets.⁸⁹

Yet on August 12, Albanese proceeded to blame all of those deaths on Israeli fire, claiming the Israeli military “clearly targets people indiscriminately, as the 46 people who lost their lives, 15 of whom are children, testify.”⁹⁰ On August 16, four days later, the AP reported that “Palestinian rights groups,” in apparent disagreement with Albanese, were still not attributing to Israel the deaths of 13 of the Palestinian civilians killed during the August 5–7 conflict.⁹¹

The prior special rapporteur, Michael Lynk, expressed similar views. His term, during which he questioned Israel’s right to UN membership,⁹² culminated with a March 2022 report that set forth a spurious definition of apartheid and asserted that Israel perpetrates that crime.⁹³ The governments of the United States,⁹⁴ Austria,⁹⁵ France,⁹⁶ the Czech Republic, Germany,⁹⁷ and the United Kingdom⁹⁸ have all rejected this false accusation.

85. Mike Wagenheim, “UN Official Again Justifies Palestinian Terrorism Against Israel,” *Israel Today* (Israel), June 26, 2022. (<https://www.israeltoday.co.il/read/un-official-again-justifies-palestinian-terrorism-against-israel>)

86. @FranceskAlbs, *Twitter*, August 6, 2022. (<https://twitter.com/FranceskAlbs/status/1555836586985676800?s=20&t=R2jYi0FKn4KSMjq8eaawJQ>)

87. Tia Goldenberg and Joseph Krauss, “Misfired rockets may have killed over a dozen in Gaza battle,” *Associated Press*, August 8, 2022. (<https://apnews.com/article/middle-east-israel-tel-aviv-403d37366347e0f2446e2f90a9b0d02f>)

88. Yaniv Kubovich, “Israeli Strike Killed 5 Gaza Children, Officials Admit, After Initially Blaming Islamic Jihad,” *Haaretz* (Israel), August 16, 2022. (<https://www.haaretz.com/israel-news/2022-08-16/ty-article/.highlight/after-initial-denial-israeli-officials-admit-5-palestinian-minors-killed-in-gaza-strike/00000182-a2b6-d825-a5a7-aaf6d3320000>)

89. Fares Akram and Sam McNeil, “Reports: Israel carried out Gaza strike that killed 5 minors,” *Associated Press*, August 16, 2022. (<https://apnews.com/article/middle-east-israel-militant-groups-gaza-strip-730823fba5eafd5d328537c3665613b4>)

90. @MiddleEastEye, *Twitter*, August 12, 2022. (<https://twitter.com/MiddleEastEye/status/1558075836309184512>)

91. Fares Akram and Sam McNeil, “Reports: Israel carried out Gaza strike that killed 5 minors,” *Associated Press*, August 16, 2022. (<https://apnews.com/article/middle-east-israel-militant-groups-gaza-strip-730823fba5eafd5d328537c3665613b4>)

92. “U.N. Palestine monitor calls for moves to challenge Israel’s membership in world body,” *UN Watch*, July 24, 2017. (<https://unwatch.org/u-n-palestine-monitor-questions-israels-status-membership-world-body>)

93. Office of the United Nations High Commissioner for Human Rights, “Report of the Special Rapporteur on the situation of Human Rights in the Palestinian territories occupied since 1967,” March 21, 2022. (<https://www.ohchr.org/en/documents/country-reports/ahrc4987-report-special-rapporteur-situation-human-rights-palestinian>)

94. Ismael Khader, “Amnesty accuses Israel of enforcing ‘apartheid’ on Palestinians,” *Reuters*, February 1, 2022. (<https://www.reuters.com/world/amnesty-accuses-israel-enforcing-apartheid-palestinians-2022-02-01>)

95. Tovah Lazaroff, “Israel not apartheid state, but must uphold int’l law, UK says,” *The Jerusalem Post* (Israel), February 5, 2022. (<https://www.jpost.com/israel-news/article-695546>)

96. Zvika Klein, “France’s Macron comes out against claims of Israeli apartheid,” *The Jerusalem Post* (Israel), February 28, 2022. (<https://www.jpost.com/diaspora/antisemitism/article-698925>)

97. Tovah Lazaroff, “Israel not apartheid state, but must uphold int’l law, UK says,” *The Jerusalem Post* (Israel), February 5, 2022. (<https://www.jpost.com/israel-news/article-695546>)

98. Lazar Berman, “‘We do not agree’: UK rejects Amnesty report accusing Israel of apartheid,” *The Times of Israel* (Israel), February 4, 2022. (<https://www.timesofisrael.com/we-do-not-agree-uk-rejects-amnesty-report-accusing-israel-of-apartheid>)

The UNHRC's predecessor body, the UN Commission on Human Rights, created the Palestine special rapporteur position in 1993.⁹⁹ The UNHRC replaced the commission in 2006¹⁰⁰ after the latter was discredited for its vastly disproportionate criticism of Israel¹⁰¹ and for its domination by countries with poor human rights records.¹⁰²

Kofi Annan, the UN secretary-general at the time, warned the UNHRC during its first year of operation to handle the Israeli-Palestinian conflict "in an impartial way, and not allow it to monopolize attention at the expense of others where there are equally grave or even graver violations."¹⁰³ The UNHRC has failed to heed Annan's warning but could begin to reverse that legacy by repealing the Palestine special rapporteur position or replacing Albanese.

OPPORTUNITIES FOR CHANGE

To start to reform the UN human rights apparatus, members of Congress should work with the Biden administration to accomplish three goals:

1. Persuade the UN secretary-general to nominate by August 31 a high commissioner for human rights who will halt the UN human rights apparatus' whitewashing of human rights abuses by China and other powerful authoritarian regimes and its bashing of Israel.
2. Lead an initiative at the next UNHRC regular session, which begins on September 12, to dissolve the Israel-Palestine COI, whose mandate and commissioners are biased.
3. Repeal the position of "Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967," whose mandate is one-sided. Failing repeal of this position, the UNHRC should replace its current incumbent.

Making these changes will be an uphill battle, but there is precedent for the United States leading a campaign to reverse antisemitism at the United Nations: In 1991, the General Assembly voted to repeal a 1975 resolution declaring Zionism to be racism,¹⁰⁴ which is essentially what the COI was last year designed to conclude. Eradicating such antisemitism is essential if the UN human rights apparatus is ever to become a true force for good.

99. United Nations Commission on Human Rights, Resolution 1993/2, February 19, 1993. (<https://www.un.org/unispal/document/auto-insert-180615>)

100. United Nations General Assembly, Resolution 60/251, March 15, 2006. (<https://www.ohchr.org/en/hr-bodies/hrc/about-council>)

101. Hillel C. Neuer, "The Struggle Against Anti-Israel Bias at the UN Commission on Human Rights," *Jerusalem Center for Public Affairs*, January 1, 2006. (<https://www.jcpa.org/phas/phas-040-neuer.htm>)

102. "UN creates new human rights body," *BBC* (UK), March 15, 2006. (<http://news.bbc.co.uk/2/hi/europe/4810538.stm>)

103. United Nations, "Annan calls on Human Rights Council to strive for unity, avoid familiar fault lines," November 29, 2006. (<https://news.un.org/en/story/2006/11/201202-annan-calls-human-rights-council-strive-unity-avoid-familiar-fault-lines>)

104. Paul Lewis, "U.N. Repeals its '75 Resolution Equating Zionism with Racism," *The New York Times*, December 17, 1991. (<https://www.nytimes.com/1991/12/17/world/un-repeals-its-75-resolution-equating-zionism-with-racism.html>)

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