The UN’s ‘independent,’ ‘impartial’ and ‘objective’ inquisition

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“First, the verdict is pronounced, then the jury weighs the evidence and finally the parties are supposed to present their respective cases.” That is how renowned law professor Yoram Dinstein described the backwards process by which the United Nations has created its “investigatory” bodies against Israel all the way back in June 1972. It’s a process designed not to uncover the facts, but to declare the Jewish state guilty and come up with the reason why later.

The consequence is that when [media personalities](https://www.camera.org/article/the-extraordinary-bad-faith-of-mehdi-hasan/#:~:text=Lesson%20%232%3A%20Hide%20Your%20Outlandish%20Claims%20Behind%20False%20Appeals%20to%20Authority) or news agencies rely on the United Nations for factual or legal claims, consumers must treat these claims with a great deal of skepticism.

Open hostility to impartiality and objectivity seems to be a feature, not a flaw, when it comes to the United Nations. Such is the case with the U.N. [Commission of Inquiry](https://www.jns.org/opinion/un-revises-its-rules-for-an-anti-israel-inquiry/) (“COI”), created after the May 2021 conflict with an unprecedented [mandate](https://www.thinc.info/wp-content/uploads/2022/04/UNCOI-BP_final_20220412.pdf). As elaborated below, the histories of all three COI members are antithetical to impartiality and objectivity.

But those three commissioners are not the only examples.

Just recently, the Office for the Coordination of Humanitarian Affairs (“OCHA”), which has a reputation for [lacking transparency](https://www.camera.org/article/the-uns-very-secret-data-on-palestinians-killed-in-settler-related-incidents-buried-information-and-media-disinformation/), removed a senior official from her post simply for [stating](https://www.timesofisrael.com/senior-un-official-loses-post-after-tweet-condemning-pij-rocket-fire-at-israel/): “Such indiscriminate rocket fire of [Islamic Jihad](https://www.state.gov/foreign-terrorist-organizations/#:~:text=Liberation%20Front%20(PLF)-,October%208%2C%201997,Palestine%20Islamic%20Jihad%20(PIJ),-October%208%2C%201997) provoking Israeli retaliation is condemned.”

Similarly, just last year, the U.N. Relief and Works Agency (UNRWA) Gaza director, Matthias Schmale, was removed from his post after saying “he would not dispute” that the Israeli strikes during “Operation Guardian of the Walls” were “precise.” Schmale was promptly [replaced](https://www.algemeiner.com/2021/06/03/replacement-for-unrwas-ousted-gaza-director-rebukes-predecessors-indefensible-admission-that-israel-did-not-target-civilians-hamas-claims/) by an individual who called his remarks “indefensible” during a meeting with Yahya Sinwar, leader of the internationally-designated terrorist organization Hamas.

Meanwhile, individuals like the COI members, with lengthy histories of hostility toward Jews and the Jewish state, remain in their positions.

**The Inquisitors of the U.N. Commission of Inquiry**

Much has also been written about the three individuals who were appointed to serve on the COI. Human Rights Voices has [detailed](http://humanrightsvoices.org/pillays-pogrom/the-inquiry-members/) the histories of the three commissioners, [including](https://www.jns.org/opinion/un-revises-its-rules-for-an-anti-israel-inquiry/) how their past statements “make a mockery of the most elementary preconditions of fairness and legitimacy.” Other organizations, like NGO Monitor, have similarly [provided](https://www.ngo-monitor.org/reports/anti-israel-bias-and-ngo-links-of-unhrcs-gaza-committee-of-inquiry-members/) ample evidence relating to their connections with anti-Israel organizations.

There is a particular abundance of material on the unfitness of the COI’s chairperson, Navi Pillay. Human Rights Voices has comprehensively documented the nefarious role Pillay played in whitewashing and promoting the anti-Semitic scandal that was the 2001 [Durban](http://humanrightsvoices.org/durban/) “Anti-Racism” Conference and its follow-ups. In February 2022, U.N. Watch submitted a [request](https://unwatch.org/wp-content/uploads/2022/02/Request-for-Navi-Pillay-to-Recuse-Herself-on-Grounds-of-Bias.pdf) for Pillay to recuse herself, comprehensively detailing her lack of impartiality and objectivity.

More recently, the COI has taken center stage due to the overtly anti-Semitic remarks of the commissioners over the summer. In June 2022, during the presentation of the COI’s first report to the Human Rights Council, Chris Sidoti [accused](https://blogs.timesofisrael.com/a-un-commissioners-antisemitic-chutzpah/) Jewish nonprofit organizations of being “[GONGOs](https://foreignpolicy.com/2009/10/13/what-is-a-gongo/),” that is, entities of the State of Israel. It’s a classic example of the anti-Semitic [dual-loyalty](https://www.worldjewishcongress.org/en/news/defining-antisemitism-dual-loyalty) trope.

Unsatisfied with just one such trope, during the same speech Sidoti also [insidiously mocked](https://hrvoices.org/article/the-u-n-commission-of-inquiry-an-exercise-in-historical-revisionism/) the Jewish community’s concerns over rising [anti-Semitism](https://www.cnn.com/2022/02/03/us/antisemitism-incidents-holocaust-education/index.html), stating: “It seems that accusations of anti-Semitism are thrown around like rice at a wedding. That legitimizes anti-Semitism. Trivializes anti-Semitism.”

Then, in an interview published on July 25, 2022, Sidoti’s fellow commissioner Miloon Kothari promoted another anti-Semitic trope, the “[Jews have too much power](https://antisemitism.adl.org/power/)” trope, as the Anti-Defamation League puts it, [claiming](https://jcpa.org/article/the-un-human-rights-councils-commission-of-inquiry-goes-openly-antisemitic/): “We are very disheartened by the social media that is controlled largely by whether it’s the Jewish lobby or it’s the specific NGOs. A lot of money is being thrown into trying to discredit us.”

Also unsatisfied with just one simple anti-Semitic trope, Kothari continued: “I would go so far as to raise the question as why are they even a member of the United Nations.”

It should go without saying that suggesting that only the Jewish state doesn’t belong among the community of nations is a [double standard](https://www.holocaustremembrance.com/resources/working-definitions-charters/working-definition-antisemitism#:~:text=Applying%20double%20standards%20by%20requiring%20of%20it%20a%20behavior%20not%20expected%20or%20demanded%20of%20any%20other%20democratic%20nation.) no matter what way you slice it.

With her own long history of attacking what she calls “[propaganda](https://www.forbes.com/2009/04/27/durban-conference-racism-geneva-opinions-contributors-geneva.html)” (i.e., outrage at overt anti-Semitism) of the “Jewish lobby” that she [thinks](https://www.un.org/en/durbanreview2009/pr_8-9-08.shtml) is too “focused on single issues” (i.e., Jews are too concerned about the hatred they personally face), Pillay roared into overdrive to not only defend the bigoted remarks of her co-commissioners but even portray one of the comments as virtuous.

In a [letter](https://hrcmeetings.ohchr.org/PresidencyBureau/BureauRegionalGroupsCorrespondence/Correspondence/Letter%20from%20Chair%20of%20the%20COI%20on%20the%20OPT,%20including%20East%20Jerusalem,%20and%20Israel%20to%20HRC%20President.pdf) penned by Pillay on July 28, 2022, she accused the outraged Jewish community of “deliberately” taking “out of context” Kothari’s remarks from three days earlier. Then, in a moment that exposed the entire Pillay game, she highlighted the COI’s “position in the clearest terms on anti-Semitism” by quoting Sidoti’s “like rice at a wedding” line. It’s a position that doesn’t actually condemn anti-Semitism, it just blames the victims for “trivializing” and “legitimizing” the hatred of them.

These are the three individuals placed in charge of investigating the Jewish state.

**The U.N.’s own rules**

The character of U.N. actors, particularly those in investigatory roles, matters. Fairness, and the perception of fairness, is critical for the rule of law and for public confidence in the conclusions of any investigatory or adjudicatory body. U.S. judges, for example, are [instructed](https://www.uscourts.gov/judges-judgeships/code-conduct-united-states-judges#:~:text=(1)%20A%20judge%20should%20be,decorum%20in%20all%20judicial%20proceedings.) to “act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.”

The United Nations has itself acknowledged the importance of standards relating to fairness and credibility in such roles. In June 2007, the Human Rights Council adopted Resolution 5/1 and the annexed “Institution-Building Package,” paragraph 39 of which includes the following instructions:

“The following general criteria will be of paramount importance while nominating, selecting and appointing mandate-holders: (a) expertise; (b) experience in the field of the mandate; (c) independence; (d) impartiality; (e) personal integrity; and (f) objectivity.”

In Resolution 5/2, the Human Rights Council also adopted a “[Code of Conduct](https://ap.ohchr.org/documents/E/HRC/resolutions/A_HRC_RES_5_2.doc)” for mandate holders, which instructed that mandate holders shall:

• “Act in an independent capacity, and exercise their functions in accordance with their mandate, through a professional, impartial assessment of facts…” (Article 3a)

• “Uphold the highest standards of efficiency, competence and integrity, meaning, in particular, though not exclusively, probity, impartiality, equity, honesty and good faith;” (Article 3(e))

• “Be aware of the importance of their duties and responsibilities, taking the particular nature of their mandate into consideration and behaving in such a way as to maintain and reinforce the trust they enjoy of all stakeholders;” (Article 3h)

• “Bear in mind the need to ensure that their personal political opinions are without prejudice to the execution of their mission, and base their conclusions and recommendations on objective assessments of human rights situations” (Article 12a)

• “In implementing their mandate, therefore, show restraint, moderation and discretion so as not to undermine the recognition of the independent nature of their mandate or the environment necessary to properly discharge the said mandate.” (Article 12b)

While some, like Pillay, have attempted to [depict](https://hrcmeetings.ohchr.org/PresidencyBureau/BureauRegionalGroupsCorrespondence/Correspondence/Letter%20from%20Chair%20of%20the%20COI%20on%20the%20OPT,%20including%20East%20Jerusalem,%20and%20Israel%20to%20HRC%20President.pdf) criticism of their fitness for their roles as “personal attacks,” common sense, international practice and the U.N.’s own resolutions argue otherwise. The character, impartiality, objectivity, independence and integrity of the mandate holder is exactly what is supposed to give the mandate’s conclusions and recommendations credibility.

Indeed, it was these very rules [cited](https://www.ejiltalk.org/biased-selective-antisemitic-accusations-against-the-un-commission-of-inquiry-on-israel-and-the-occupied-palestinian-territories/) by the Human Rights Council president, Federico Villegas, in a [letter](https://hrcmeetings.ohchr.org/PresidencyBureau/BureauRegionalGroupsCorrespondence/Correspondence/Letter%20from%20President%20of%20HRC%20to%20the%20Chair%20of%20the%20COI%20on%20the%20OPT,%20including%20East%20Jerusalem,%20and%20Israel.pdf) responding to Kothari’s remarks.

Despite this, and in contrast with the example of Sarah Muscroft, all three commissioners remain in their posts.

**Other hostile U.N. actors**

Two other prominent U.N. officials with responsibilities regarding the Israeli-Palestinian conflict have similarly demonstrated a complete lack of impartiality. Media consumers must bear this background in mind when the United Nations is cited as a source during reporting on the conflict. While information coming out of the United Nations on the topic of the Israeli-Palestinian conflict is not always inaccurate, all too often it is, and all too often it is coming from actors who are not shy about their hostility to the Jewish state.