

December 6, 2017

VIA OVERNIGHT DELIVERY SERVICE

Ambassador Nikki R. Haley
Permanent Representative of the United States
of America to the United Nations
799 United Nations Plaza
New York, NY 10017

RE: \$65 Million Allotment by UN for Anti-Israel "Lawfare"

Dear Ambassador Haley:

By way of introduction, the American Center for Law and Justice ("ACLJ") is an organization dedicated to the defense of constitutional liberties secured by law. ACLJ attorneys have argued cases before the Supreme Court of the United States,¹ other federal appellate and trial courts, as well as numerous state courts throughout the United States. The ACLJ is further dedicated, *inter alia*, to the promotion and protection of human rights and to the furtherance of the rule of law in global affairs. Our European affiliate, the European Centre for Law and Justice also holds Special Consultative Status as an NGO before the United Nations.

Recently, it has come to light that organizations within the United Nations have budgeted to set aside funds to assist the Palestinian Authority in the waging of "lawfare" against the State of Israel.² Such budgetary allotments often go unnoticed by the news, but the size of the allotment

¹See, e.g., *Pleasant Grove v. Summum*, 555 U.S. 460 (2009) (unanimously holding that the First Amendment does not require the government to display counter-monuments when it displays a Ten Commandments monument); *McConnell v. FEC*, 540 U.S. 93 (2003) (unanimously upholding the First Amendment rights of minors); *Lamb's Chapel v. Center Moriches Sch. Dist.*, 508 U.S. 384 (1993) (unanimously holding that denying a church access to public school premises to show a film series violated the First Amendment); *Bd. of Educ. v. Mergens*, 496 U.S. 226 (1990) (holding by an 8-1 vote that allowing a student Bible club to meet on a public school campus did not violate the Establishment Clause); *Bd. of Airport Comm'rs v. Jews for Jesus*, 482 U.S. 569 (1987) (unanimously striking down an airport's ban on First Amendment activities).

²*United Nations Development Assistance Framework State of Palestine 2018-2022*, PROGRAMME OF ASSISTANCE TO THE PALESTINIAN PEOPLE, http://www.ps.undp.org/content/dam/papp/docs/Publications/UNDP-papp-research-undaf_2018-2022.pdf.



(not to mention its purpose)—nearly \$65 million USD over the next four years, coming on top of aid already being given to the PA—is startling.³ Regrettably, this plan of the United Nations Development Assistance Framework (UNDAF) is nothing more than yet another unfair swipe at Israel by UN bodies.

The anti-Israel bias that runs through the 16 organizations that have signed this programming framework must be acknowledged.⁴ For example, whether it was disregarding Jewish ties to the Temple Mount⁵ or erasing the Jewish character of the Tomb of the Patriarchs by labeling it as solely a Palestinian World Heritage Site,⁶ the United Nations Educational, Scientific and Cultural Organization (UNESCO) has had a long streak of bigotry and anti-Semitism.⁷ Teachers funded by the United Nations Relief and Works Agency for Palestine (UNRWA) have been linked to teaching anti-Semitism and Holocaust denial within their curriculum at Palestinian schools.⁸ The United Nations Children’s Fund (UNICEF) has perpetuated false narratives over the Israeli Defense Forces treatment of suspected juvenile criminals.⁹ The UN Office for the Coordination of Humanitarian Affairs (OCHA) has coordinated efforts against Israel in the past.¹⁰

This concerted anti-Israel campaign, driven predominantly by thinly-veiled anti-Semitism, has spread throughout the UN.¹¹ Secretary Antonio Guterres has called on nations to stand up to this intolerance, but calls for equal treatment have gone unanswered.¹² Former UN Secretary Ban Ki-moon has also stated that “decades of political maneuvering have created a disproportionate number of resolutions and committees against Israel.”¹³ Yet instead of more measured tones and policies we now encounter a new outrage in the form of a document calling for massive expenditure to bring greater “accountability” against Israel and “strengthening capacities to

³Anne Bayefsky, *UN Launches \$65m Legal Pogrom to Hunt Down Israelis and Smear Israel as Criminal State*, PJMEDIA.COM (Oct. 31, 2017), <https://pjmedia.com/trending/un-launches-65m-legal-pogrom-hunt-israelis-smear-israel-criminal-state/>.

⁴For a list of the organizations and the United Nations Development Assistance Framework, see *supra* note 2.

⁵Tovah Lazaroff, Herb Keinon, Michael Wilner, & Adam Rasgon, *UNESCO Votes: No Connection Between Temple Mount and Judaism*, THE JERUSALEM POST (Oct. 13, 2016, 4:43 PM), <http://www.jpost.com/Breaking-News/UNESCO-No-connection-between-Temple-Mount-and-Judaism-470050>.

⁶Tovah Lazaroff, Eytan Halon, & Shoshana Kranish, *UNESCO Rules Cave of the Patriarchs as Palestinian*, THE JERUSALEM POST (July 7, 2017, 12:54 PM). <http://www.jpost.com/Arab-Israeli-Conflict/UNESCO-votes-in-favor-of-inscribing-Hebron-sites-to-the-State-of-Palestine-499059>.

⁷Ben Samuels, *Six Key Moments in Israel's Tumultuous Relationship with UNESCO*, HAARETZ (Oct. 12, 2017, 7:01 PM), <https://www.haaretz.com/israel-news/1.816955>.

⁸*130-page Report: UNRWA Teachers Incite Terrorism & Antisemitism*, UN WATCH (Feb. 2, 2017), <https://www.unwatch.org/130-page-report-unrwa-teachers-incite-terrorism-antisemitism/>.

⁹Yonah Jeremy Bob, *Outgoing Prosecutor Reveals Details about Secret Dialogue with UNICEF*, THE JERUSALEM POST (Feb. 19, 2017, 9:09 PM), <http://www.jpost.com/Israel-News/Outgoing-Prosecutor-reveals-details-about-secret-dialogue-with-UNICEF-482016>.

¹⁰*UN OCHA Coordinates Anti-Israel Demonization*, NGO MONITOR (Apr. 7, 2016), <https://www.ngo-monitor.org/press-releases/un-ocha-coordinates-anti-israel-demonization/>.

¹¹*Netanyahu, at General Assembly, Denounces 'Absurdities,' Anti-Semitism in UN Decisions*, UN NEWS CENTRE (Sept. 19, 2017), <http://www.un.org/apps/news/story.asp?NewsID=57566#.WfpLRfSxhE>.

¹²*UN Chief Vows to Stand up against Anti-Israel Bias, Anti-Semitism*, THE TIMES OF ISRAEL (Apr. 24, 2017, 3:56 AM), <https://www.timesofisrael.com/un-chief-vows-to-stand-up-against-anti-israel-bias-anti-semitism/>.

¹³May Bulman, *Ban Ki-moon Says UN has 'Disproportionate' Focus on Israel*, INDEPENDENT (Dec. 17, 2016, 11:52 PM), <http://www.independent.co.uk/news/world/middle-east/ban-ki-moon-united-nations-disproportionate-israel-focus-resolutions-palestinians-human-rights-danny-a7481961.html>.

document violations” while helping Palestinian groups “ability to advocate effectively for rights to be respected.”¹⁴ In essence, the United Nations is now funding the propaganda arm of the Palestinian Authority against a UN member state, Israel.

The duplicitous nature of the UNDAF proposal must also be acknowledged. Time and again, whether it was before the ICC¹⁵, the General Assembly¹⁶, UNESCO¹⁷, or any of a number of countless NGO’s that have disputed it, Israel has maintained that Palestine is not a state. However, the very first listed goal of the UNDAF—a document signed by many of these same agencies that have argued that Palestine is an independent state—is to use the funds to “support Palestine’s path to independence.” The so-called “State of Palestine” is cynically used as a convenient platform to attack Israel in international bodies where statehood is a requirement for membership. However, when it is financially advantageous, any claims of statehood are expunged and the same entity is characterized as an oppressed population of refugees seeking the means to independence.

Madam Ambassador, it was you who proclaimed less than a year ago that “The days of Israel bashing are over.”¹⁸ You have explained in the past how you have “no patience” for the kind of bullying Israel has had to stand for, and that your tenure at the UN has changed the tone for the way the UN conducts business regarding Israel.¹⁹ We commend the position you have expressed on behalf of the United States that anti-Semitism must not be tolerated and that Israel cannot be used as the scapegoat for all of the Middle East’s problems.

Moreover, this is not just about Israel. By funding Palestinian “lawfare” the UN is incentivizing the PA to act against its own interests by continuing to dodge direct negotiations with Israel and instead waste time and resources on trying to delegitimize Israel in the international arena.

Furthermore, there is no way of guaranteeing that these funds won’t simply be channeled into supporting terrorism, whether by virtue of the fact that the terrorist organization Hamas is currently a partner in the Palestinian government or because the PA continues to pay generous benefits to terrorists and their families out of the vast aid that it receives from the international community.

¹⁴*U.N. Gives \$1.3 Billion for Palestinian “Legal Recourse” against Israel & Other “Development Programming”*, UN. WATCH (Oct. 28, 2017, 11:26 PM), <https://www.unwatch.org/u-n-gives-1-3-billion-palestinian-legal-recourse-israel-development-programming/>.

¹⁵June 2017: Consultation on the ‘Registry’s Single Policy Document on the Court’s Legal Aid System’, INTERNATIONAL CRIMINAL COURT (May 9, 2017), <https://www.icc-cpi.int/legalAidConsultations?name=pr1103>.

¹⁶Meetings Coverage, General Assembly, General Assembly Votes Overwhelmingly to Accord Palestine ‘Non-Member Observer State’ Status in United Nations, U.N. Meetings Coverage GA/11317 (Nov. 29, 2012), <https://www.un.org/press/en/2012/ga11317.doc.htm>.

¹⁷Colum Lynch, *UNESCO Votes to Admit Palestine; U.S. Cuts off Funding*, THE WASHINGTON POST (Oct. 31, 2011), https://www.washingtonpost.com/world/national-security/unesco-votes-to-admit-palestine-over-us-objections/2011/10/31/gIQAMleYZM_story.html?utm_term=.fb07615eeb70.

¹⁸*At AIPAC, UN Envoy Nikki Haley Vows No More Resolutions Against Israel*, HAARETZ (Mar. 28, 2017, 2:00 AM), <https://www.haaretz.com/israel-news/1.779876>.

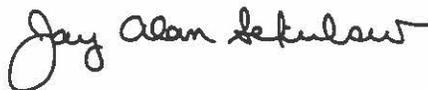
¹⁹Herb Keinon, *Nikki Haley in Jerusalem: UN Cannot Continue to Bully Israel*, THE JERUSALEM POST (June 7, 2017, 1:21 PM), <http://www.jpost.com/Israel-News/Politics-And-Diplomacy/Nikki-Haley-in-Jerusalem-UN-cannot-continue-to-bully-Israel-496121>.

Fortunately, the organizations behind this latest scandalous move are subject to the oversight of the General Assembly, the UN Secretariat, and the Economic and Social Council.²⁰ The United States plays a major role in all of these forums, and its influence can be leveraged to bring a halt to this improper allocation of funds. Indiscriminate funding of the kind being asked for here will produce disastrous results for all. Israel will continue to be targeted, the Palestinians who actually need assistance will go unheeded, and the United States will be complicit in all of it. As a founding member of the United Nations and a leader in international affairs, the United States must stop this harm from occurring. To that end, we ask that the United States reduce the amount of aid given to the eight organizations seeking funding for aid in the implementation of Strategic Priority 1 of the UNDAF.²¹ Strategic Priority 1 is nothing short of directly funding efforts to malign and vilify Israel. Under the guise of “holding Israel accountable,” groups are using American funds to engage in conduct that is contrary to the spirit of the United Nations and international law.²²

While Strategic Priority 1 is the most egregious, make no mistake that the constant references to occupation in the other three Priorities has not gone unnoticed. As more of the day-to-day implementation of the UNDAF for Palestine becomes clear, the ACLJ will be better suited to provide more information. We are paying close attention to the results of an upcoming meeting between Hamas and Fatah following a reconciliation meeting in Cairo during the first week of December.²³ This is particularly worrying, given that portions of the \$1.2 billion USD being requested for the entire UNDAF may find their way into the hands of terrorists who are “former members” of Hamas in name only.

We, therefore, respectfully urge you, as Ambassador for the United States, to do everything in your power to block this initiative as part of your effort to bring about a fundamental change in the way the UN does business in relation to Israel and the Palestinians.

Sincerely,



Jay Alan Sekulow
Chief Counsel

²⁰*The United Nations System*, UN.ORG, http://www.un.org/en/aboutun/structure/pdfs/UN_System_Chart_30June2015.pdf (last visited Dec. 5, 2017).

²¹*United Nations Development Assistance Framework*, *supra* note 2, at 24, Box 4.

²²*Id.* at 15.

²³Dov Lieber, *Translation of Leaked Hamas-Fatah Agreement*, THE TIMES OF ISRAEL (Oct. 15, 2017), <https://www.timesofisrael.com/translation-of-leaked-hamas-fatah-agreement/>.